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LOCAL GOVERNMENT FINANCES IN THE CONSTITUTIONS OF SELECTED EUROPEAN COUNTRIES AGAINST THE BACKGROUND OF "MODEL" REGULATIONS

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(Summary)

The current role of local government is extremely important. The functioning of local government is inextricably linked to its expenditure and financing. Usually, regulations in the field of local government finance are to be found in an ordinary law. However, such regulations often also derive from constitutional provisions. This article aims to analyse the constitutions of selected European countries with regard to the existence of legal and financial regulations concerning local government units. The analysis begins with the presentation of model regulations for European states, which can be taken as the European Charter of Local Self-Government and the European Charter of Regional Self-Government. Then it leads to a list of constitutions of selected European states, which can be assigned to three groups. The first of these refers to basic laws regulating legal and financial issues concerning local government symbolically or tacitly. The second group includes the constitutions of selected European countries that regulate local government finance in a general way. The third group, in turn, refers to constitutions that contain detailed regulation of local government from the perspective of its finances.

Key-words: Constitutions, local government finance, Europe, local government, municipalities.

Finanse samorządowe w konstytucjach wybranych państw europejskich na tle regulacji „modelowych" (Streszczenie)

Obecnie rola samorządu terytorialnego jest niezwykle istotna. Funkcjonowanie samorządu jest nierozerwalnie związane z jego wydatkami i finansowaniem. Zazwyczaj regulacje w zakresie finansów samorządowych znajdują się w ustawie zwykłej. Często jednak takie regulacje wynikają również z przepisów konstytucyjnych. Niniejszy artykuł ma na celu analizę konstytucji wybranych państw europejskich pod kątem istnienia regulacji prawno-finansowych dotyczących jednostek samorządu terytorialnego. Analiza rozpoczyna się od przedstawienia modelowych regulacji dla państw europejskich, za które można uznać Europejską Kartę Samorządu Lokalnego oraz Europejską Kartę Samorządu Regionalnego. Następnie prowadzi do zestawienia konstytucji wybranych państw europejskich, które można przyporządkować do trzech grup. Pierwsza z nich odnosi się do ustaw zasadniczych regulujących kwestie prawne i finansowe dotyczące samorządu terytorialnego w sposób symboliczny lub milczący. Druga grupa obejmuje konstytucje wybranych

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państw europejskich, które w sposób ogólny regulują finanse samorządowe. Trzecia grupa z kolei odnosi się do konstytucji zawierających szczegółową regulację samorządu terytorialnego z perspektywy jego finansów.

Słowa kluczowe: Konstytucje, finanse samorządowe, Europa, samorząd lokalny, gminy.

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Introduction

The role of local government in the modern world cannot be overestimated. One of the important levels of local government functioning in any democratic state is the financial level. The issue of local government finance is usually regulated by statute. In most European countries, this issue is also present in constitutions.

This article aims to analyse the constitutions of selected European states regarding the existence of legal and financial regulations concerning local government units. The constitutions provide guidelines for the legislature in creating appropriate regulations concerning local government finances. It is important to determine whether the constitutions of individual states regulate legal and financial issues concerning local government in a general or specific manner. It may also be important to determine whether there are constitutions in European states that are silent on local government finance.

The European Charter of Local Self-Government and the European Charter of Regional Self-Government may serve as specific model regulations for European countries. Some European states have adopted both Charters into their legal order, some have adopted one of the Charters, and some have adopted none. However, whether or not these Charters formally bind European countries, there is no doubt that the regulations contained in these Charters influence the legislation of all European countries - to a greater or lesser extent. Therefore, this publication must present the basic issues relating to the European Charter of Local Self-Government and the European Charter of Regional Self-Government from the perspective of local government finance.

The article uses the texts of basic laws of selected European countries made available on the website of the Sejm Publishing House. The analysis does not include the constitutions of Belarus, Bosnia and Herzegovina, Montenegro, San Marino and Kazakhstan due to the lack of the mentioned fundamental laws in the Polish language version on the Sejm website.

The basic research methods used in the publication are the dogmatic-legal and comparative-legal methods.

1. 'Model' regulations

Two Charters are regarded as 'model' regulations for local government:

1) European Charter of Local Self-Government (EKSL) drawn up in Strasbourg on 15 October 1985 by the member states of the Council of Europe[3] (has been signed, ratified and published in the Journal of Laws by Poland)[4] ,
2) European Charter of Regional Self-Government (EKSR) adopted by the Fourth Session of the Congress of Local and Regional Authorities held on 3 - 5 June 1997 in Strasbourg.

Both Charters contain regulations on local government finances - EKSL on local government finances, EKSR on regional government finances.

The EKSL has had a significant impact on the situation of local government in the system of the Council of Europe member states. It thus constitutes a source of harmonisation of the legislation of the Member States in matters of local self-government and its units (Kieres, 2015, p. 79). A. Borodo pointed out that a consequence of the recognition of the EKSL as a source of universally binding law is the possibility for self-government bodies to apply to the Constitutional Court with a request to declare the incompatibility with the Constitution or the EKSL of a particular law (Borodo, 2006, p. 64). However, the literature indicates that the EKSL is of a general, intentional nature (Wantoch-Rekowski, Morawski, 2019, p. 120).

The EKSL's legal and financial regulations are contained in Article 9(1)-(8). The literature indicates that the EKSL in Article 9 addresses general problems related to the principles of community financing by providing for the need to equip local government with adequate financial instruments for the performance of public tasks (Giejłaszewska, 2018, p. 87).

It follows from Article 9(1) that local communities have the right, as a matter of national economic policy, to have their own sufficient financial resources at their disposal freely in the exercise of their powers. The key concept arising from this provision is 'sufficient financial resources' - it is undefined in nature. Each state in which the EKSL applies fills it in with content in a manner specific to that state. W. Miemiec pointed out

[3] Journal of Laws 1994, no. 124, item 607.
[4] Extensively on the EKSL - Szewc, *Charakterystyka*… (2002), pp. 132-139; Szewc, *Uwagi* … (2002), pp. 47-56, Fuks (2001), pp. 39-43.

that this provision lacks a concept or at least criteria by which the scope of the term "own financial resources" could be determined (Miemiec, 1997, p. 66). The literature emphasises that free disposal does not mean discretionary disposal of financial resources, incompatible with the applicable law (Ofiarska, Ofiarski, 2010, p. 336).

Article 9(2) indicates that local communities' financial resources should be adapted to the extent of the powers granted to them by the Constitution or by law. This is the principle of adequacy of financial resources to tasks. Adequacy in law is understood as a general directive, which depends to a large extent on the assumptions made. This gives rise to many conflicts in practice related to the different, often subjective assessment of the appropriate amount of financial resources the state provides to local government units (Kornberger-Sokołowska, 2001, p. 24). D. Wyszkowska points out that in the light of the provisions of the EKSL, there is no doubt that there is a need to maintain the relationship between the revenues of local government units and the tasks determining expenditure (Wyszkowska, 2014, p. 14). It is also indicated in the literature that the Constitutional Court, referring to this provision, stated that the state's obligation to provide these resources is expressed not only by granting a subsidy, but above all "by a specific legal mechanism of obtaining by the territorial self-government financial resources from all sources" (Kruszewska-Gagoś, 2006, p. 383). In the opinion of K. Celarek, Article 9(2) has a guarantee function for the local self-government, as it obliges the state to provide local self-government units with financial resources that allow them to fulfil their tasks (Celarek, 2017, p. 58). In turn, E. Kornberger-Sokołowska pointed out that the principle of adequacy of funds to tasks, stemming from the EKSL, is a basic European standard in relation to the finances of local government units (Korbnerger-Sokołowska, 2012, p. 197)[5].

It follows from Article 9(3) that at least part of the financial resources of local communities should come from local levies and taxes, the amount of which the communities have the right to determine, to the extent determined by law. W. Miemiec referred to this postulate as the principle of the fiscal authority of local government. This principle prescribes the adoption of a complex structure of its own financial resources, part of which should have a tribute origin (and thus should come from taxes and local fees) (Miemiec, 1997, p. 67). L. Etel has extensively analysed this issue (Etel, 2010, pp. 379-388).

[5] On the independence of local government, including financial independence, in the light of the EKSL, see more extensively Ofiarska, Ofiarski (2012), pp. 332-334.

Article 9(4) indicates that the financial systems on which the resources at the disposal of local communities are based should be sufficiently diversified and flexible to respond as far as possible to real changes in the level of costs associated with the exercise of powers. According to W. Miemiec, this is the so-called flexibility principle of the community financial system. The postulate contained in this provision implies the creation of such a resource in the financial system of local communities that would be flexible and in any case responsive to the swaps in the division of tasks and competences between local government and government administration (Miemiec, 1997, p. 68).

It follows from Article 9(5) that the protection of financially weaker local communities requires the application of compensatory procedures or balancing measures to correct the effects of the unequal distribution of potential sources of revenue, as well as the expenses that these communities incur. Procedures or actions of this type should not restrict the freedom of local communities to make decisions within the scope of their own powers. H. Izdebski points out that there is no provision in the Constitution of the Republic of Poland of 2 April 1997[6] that would implement Article 9(5) of the EKSL (Izdebski, 2022, pp. 282-283). Such solutions are provided for by laws.

In turn, according to Article 9(6), local communities should be consulted, in an appropriate manner, on the forms in which they are to be allocated resources from the redistribution of income. J. Robel points out that the scope and role of the participants in the socialised decision-making process is clearly defined - it is primarily a matter of clearly separating the phase of preparation of plans and related decisions from the act of decision-making itself. The participants must know how the results of their work will be used and under what conditions they can count on the acceptance of the plans developed with their participation (Robel, 2023, p. 12). According to this author, any changes to the regulations shaping the system of local government finances should be consulted with local governments, with the local community. Expressing one's own position on the shaping of the system of self-government finance is the right of self-governments in the light of Article 9.6 of the EKSL (Robel, 2023, p. 13).

Article 9(7) indicates that, as far as possible, subsidies granted to local communities should not be used to finance specific projects. The granting of subsidies must not jeopardise the fundamental freedom of the local community to freely pursue its own policies within the scope of the powers granted to it. J. Robel defines this regulation by the

[6] Journal of Laws 1997, No. 78, item 483 as amended.

principle of limited use of targeted transfers. The granting of funds to local government units for the financing of certain specific tasks must not infringe the freedom to conduct policy in the scope of the powers granted. This is because earmarked funds restrict the freedom of action of local communities and as such should not constitute a source of funding for the local government units' own tasks (Robel, 2023, p. 13). The literature indicates that the term "subsidy", as used in the EKSL, should be understood in Poland as all government funds, thus also subsidies (Dorosz-Kruczyński, 2022, p. 41; Ofiarska, Ofiarski, 2013, p. 43).

In turn, according to Article 9(8), for the purpose of financing capital expenditures, local communities should have access to the national capital market, within the limits set by law. Local government units should be able to raise funds from temporary operations such as loans, credits or the issuance of securities. This provision provides a normative benchmark for enabling the use of loan funds and the like (Robel, 2023, p. 13). Given that Article 9(8) bars access to the domestic capital market "within the limits prescribed by law", the legislation may set requirements, procedures, criteria, restrictions or ceilings on the financing of local authorities, but in no case should these standards discourage them from borrowing from the domestic capital market or make it extremely difficult in practice (Robel, 2023, p. 13).

The European Charter of Regional Self-Government is not part of the Polish legal order, for example, but its regulations, concerning regional finances, should certainly serve as a regulatory model for all democratic European countries. Regional finances are regulated in Articles 14 and 15.

It follows from Article 14 that:

1) the regions' financial system should provide them with predictable amounts of public revenue that are appropriate to their powers and enable them to conduct their own policies (§1),
2) sources of regional funding should be sufficiently diversified and flexible to allow regions to adapt to general economic development and real changes in the cost of exercising their powers (§2),
3) with regard to the exercise of its own powers, regional financial resources should come mainly from its own sources, which regional authorities should be able to use freely (§3),
4) the principle of solidarity requires the introduction, within each country, of a financial equalisation mechanism which takes into account both potential resources

and the needs of the regions, the aim being to harmonise the living standards of the population in the various regions (§4),

5) transfers and grants should, as a rule, be earmarked for general purposes. Financial transfers to the regions and, where applicable, the share of taxes under Article 15 §3 should be based on predefined rules based on few objective criteria related to the actual needs of the regions (§5),
6) Regions should, within the limits of the law, have access to capital markets to borrow for capital expenditure with the proviso that they can demonstrate their ability to service their debt throughout the repayment period using their own revenues (§6),
7) statutory requirements to comply with certain budgetary provisions or the standard settlement system should not constitute restrictions on the financial autonomy of the regions (§ 7).

There is no doubt that Article 14 is very similar to the regulations contained in Article 9 of the European Charter of Local Self-Government.

In turn, Article 15 of the European Charter of Regional Self-Government indicates that:

1) their own financial resources should consist mainly of taxes, fees and charges, which the regions are entitled to collect within the limits set by the constitution or by law. Regions should be able to determine the amount of regional taxes and charges,
2) where it is not possible to levy its own regional taxes, the regions should be authorised, within the limits set by the constitution or by law, to set an additional percentage of taxes levied by other public authorities,
3) the regions' share of general taxes, whether set by the constitution or by law, should also be considered as own resources. Appropriate procedures should be defined for consulting all regions on the principles and agreements on the distribution and allocation of these resources,
4) the management of regional taxes, with a view to rationalising, improving efficiency and coordination, may be the responsibility of administrations belonging to several tiers of government or to extra-regional authorities, which should not affect the ownership and use of resources.

Article 15 of the EKSR deals primarily with taxation issues. The creators of the EKSR recognised that the basis for the proper functioning of a regional government is to

have its own sufficient tax revenues over which the regional government should have influence.

The ECOSOC was intended by its authors to be a normative act to organise the status of regions in Europe. The Charter, however, does not introduce regionalisation in the Council of Europe's member states; it only provides guidance for member states intending to reform their political and social systems. The content of the EKSR has, however, been and still is controversial - the authors of the EKSR have often been accused of wanting to subordinate disputed areas to neighbouring states that are economically stronger or culturally more interesting (Sobczak, 2018, p. 191). However, such accusations cannot be levelled at the EKSR as a whole - certainly the legal and financial regulations (Art. 14 and Art. 15) provide a guarantee for the proper functioning of regional self-government at the financial level[7].

2. Constitutions referring to local government finances in a symbolic or tacit manner

Within the first group of basic laws of European states, a distinction should be made between those that do not address the issue of local government finances at all and those that regulate this issue to a negligible extent.

Acts of the European Union Member States, i.e.:

- Constitution of the Kingdom of Denmark of 5 June 1953,
- Constitution of Ireland of 1 July 1937,
- Constitution of the Republic of Latvia of 15 February 1922,
- Constitution of Malta of 21 September 1964,

and the legal acts of European countries that are not members of the European Union, viz:

- Constitution of the Kingdom of Norway of 17 May 1814,
- The Basic Law of the Vatican City State of 26 November 2000 and
- Statutory law of the United Kingdom of Great Britain and Northern Ireland

do not contain any provisions governing local government finance.

Nevertheless, the absence of constitutional provisions regulating the issue of local self-governments and their finances is not indicative of carelessness or lack of attention on the part of the legislators to the institution of local self-government. According to Section 82 of the Constitution of the Kingdom of Denmark of 5 June 1953, the right of self-governing communities to manage their own affairs, under the supervision of the State, is

[7] On the 'fate' of the EKSR, he already wrote in 2006 A. Kostecki - see Kostecki (2006), pp. 35-36.

determined by law. As G. Foryś, the insignificant scope of constitutional regulations concerning the functioning of local self-government in Denmark is an expression of respect for the idea of self-government and the right of territorial communities to self-determination (Foryś, 2010, p. 62). An analogous situation exists in the case of Ireland. Following Article 28A of the Irish Constitution, the State recognises the role of local government in providing a forum for the democratic representation of the local community, in exercising and performing at the local level the powers and functions conferred by law and in supporting local initiatives in the interests of the local community. The model of local government typical of the UK and Ireland highlighted by Hesse and Sharpe consists, inter alia, in the absence of constitutional guarantees of self-government (Swianiewicz, 2002, p. 53). Despite the lack of constitutional provisions on the finances of local government in the Latvian Constitution, local government in Latvia is two-tier, with municipalities (urban, rural and combined) and districts and cities with republican status (Helnarska, 2012, p. 172). In contrast, Malta's local government structure is single-tier (Maciejuk, 2013, p. 88). In accordance with Article 115A of the Constitution of Malta, the State implements a system of local self-government whereby the territory of Malta is divided into as many local areas as may be determined by law. Each local area is administered by a Local Council, elected by its residents and established and operating under the law.

In contrast, the basic laws of the European Union Member States, viz:

- Constitution of the Republic of Bulgaria of 12 July 1991,
- Constitution of the Republic of Croatia of 22 December 1990,
- Constitution of the Republic of Cyprus of 16 August 1960,
- Constitution of the Czech Republic of 16 December 1992,
- Constitution of the Republic of Finland of 11 June 1999,
- Spanish Constitution of 27 December 1978,
- Constitution of the Republic of Lithuania of 25 October 1992,
- Constitution of the Kingdom of the Netherlands of 28 March 1814,
- Constitution of the French Republic of 4 October 1958

and the basic laws of non-EU European countries, i.e.:

- Constitution of the Republic of Iceland of 17 June 1944,
- Constitution of the Republic of Macedonia of 17 November 1991,
- Constitution of the Principality of Monaco of 17 December 1962 as well as the

– Constitution of the Turkish Republic of 7 November 1982

contain token constitutional provisions regulating local government finances. The negligible regulation of local self-government's legal and financial issues in the content of the Basic Law is often due to numerous references to the regulations of the Ordinary Law.

Pursuant to Article 140 of the Constitution of the Republic of Bulgaria of 12 July 1991, municipal property, which the municipality uses in the interest of the local community, is the municipality's property. Pursuant to Article 141 of the aforementioned Constitution, the municipality has an independent budget and the permanent financial sources of the municipality are determined by law. The municipal council shall determine the amount of local taxes under the conditions and in the manner and within the limits set by law, and shall determine the amount of local fees in the manner set by law. The state supports the proper performance of the tasks of the municipalities with grants from the state budget and with other possible means. Furthermore, according to the Constitution of the Republic of Bulgaria of 12 July 1991, Bulgaria is a parliamentary republic and a unitary state with local self-government. However, it does not allow for autonomous territorial units. Pursuant to Article 135 of the aforementioned Constitution, the territory of the Republic of Bulgaria is divided into municipalities [obštini - общини] and oblasts [oblasti - области]. The territorial division and powers of the capital municipality and other large cities are determined by law.

According to Article 137 of the Constitution of the Republic of Croatia of 22 December 1990, local and district (regional) self-government units are entitled to their own revenues, which they freely dispose of to perform their activities' tasks. The revenues of local and district (regional) self-government units must correspond to the competences provided for in the Constitution and the law. The State is obliged to provide financial assistance to weaker local government units per the law. It is worth pointing out that according to Article 1 of the Constitution of the Republic of Croatia of 22 December 1990, the Republic of Croatia constitutes a unitary, indivisible and democratic social state. Citizens are entitled to local and district self-government. According to the wording of Article 133 of the aforementioned Constitution, the units of local self-government are municipalities and cities, and their areas are established as determined by law. The law may also establish other units of local government. The units of district self-government are the żupans, and their area shall also be determined in the manner prescribed by law.

It follows from Article 174 of the Constitution of the Republic of Cyprus, dated 16 August 1960, that within the boundaries of the cities i.e. Nicosia, Limasol, Famagusta,

Larnaca and Paphos, no municipal tax, tariff, levy or other revenue may be levied or collected by a municipal council from a person if such person does not belong to the same community as that municipal council, except:

- fees paid for the use of municipal bazaars, slaughterhouses and other municipal grounds located in the area within the boundaries of which one of the municipal councils of such city has jurisdiction,
- fees on public performances, paid for the use of premises or venues lying in an area within the boundaries of which one of the municipal councils of such city has jurisdiction,
- such fees as may be agreed between the two town councils of such towns for services in addition to or in excess of those ordinarily provided by the town councils to a person not belonging to the community, payable to the council of such town. Where any services in the form of inspection or control and other services of a similar nature are provided by one of the town councils to a person belonging to the other community in those towns, any such fee shall be paid to that council which provides the service.

On the other hand, Article 175 of the Constitution of the Republic of Cyprus of 16 August 1960 refers to the issue of concessions or permits related to premises, places or operation of buildings in the area in which one of the municipal councils of such town has jurisdiction and has the right to collect fees related thereto. As R. Czachor points out in the Republic of Cyprus there is a two-tier administrative-territorial model (Czachor, 2018, pp. 146-147). The regional level consists of districts and the local level of municipalities and rural municipalities. However, only municipalities are self-governing and their authorities are locally elected. The Republic of Cyprus is composed of six districts, namely Paphos, Limassol, Nicosia, Larnaca, Famagusta and Kyrenia. Only the first two mentioned are under the complete jurisdiction of Cyprus (Czachor, 2018, pp. 146-147).

Within the scope of the regulation of local government finances contained in the Constitution of the Czech Republic of 16 December 1992, it is necessary to distinguish Article 11 (2) according to which the law indicates what assets necessary for the fulfilment of the needs of the society as a whole, the development of the national economy and the public interest may be exclusively owned by the state, municipalities or certain legal persons, the law may provide that certain assets may be owned exclusively by citizens or legal persons with permanent residence in the Czech and Slovak Federal Republic. In turn,

it follows from Articles 101 (3) and (4) of the aforementioned Constitution that local government units are public-law corporations that may own their own property and conduct their economy on the basis of their own budget. However, the state may intervene in the activities of local government units only if the protection of the law requires it and only in the manner prescribed by law. It is also worth noting that, according to Article 99 of the Constitution of the Czech Republic of 16 December 1992, the Czech Republic is divided into municipalities, which are the basic units of local self-government, and counties, which are higher-level units of local self-government. Thus, the Czech system of self-government administration has a two-tier character, i.e. it includes a division into municipalities and countries[8]. It follows in particular from Article 100 of the aforementioned Constitution that a unit of local self-government is to be understood as a territorial community of citizens who have the right to self-government. A municipality is always a constituent part of a higher-level local government unit. On the other hand, the creation and abolition of higher-level local government units can only be done by a constitutional act. As S. Kubas points out, counties still existed in Czechoslovakia, but following local government reforms, county authorities were abolished in 2000, and county offices were abolished on 1 January 2003[9]. The functions of the districts were divided between the municipality and the country - the municipalities were given the tasks of the district in the form of delegated tasks and the countries in the form of their own tasks[10].

The Constitution of the Republic of Finland of 11 June 1999 indicates in section 121 that municipalities have the right to levy municipal taxes. The general rules on the levying of taxes, the bases for taxation, as well as the rights of taxpayers and matters concerning self-government in administrative units larger than municipalities are determined by law. According to § 121 of the Constitution of the Republic of Finland of 11 June 1999, Finland is divided into municipalities, the administration of which is based on the self-government of their inhabitants. According to § 122 of the aforementioned Constitution, in organising the administration, the boundaries between the territorial units are drawn so that the Finnish-speaking and Swedish-speaking populations can obtain services in their own language and on an equal basis. With regard to municipal division, however, the legislature refers to statutory regulations. M. Niemivuo points out that the

[8] S. Kubas, Samorząd terytorialny w Republice Czeskiej. Kwestie ustrojowe i społeczny odbiór funkcjonowania samorządu [Local self-government in the Czech Republic. Systemic issues and public perception of the functioning of the self-government], Opinie i komentarze FRDL, no. 2, p. 3.
[9] *Ibid.*
[10] *Ibid.*

rights of the municipality should not be derived from those of the state structures, but should be treated as separate entities equally shaped by the Finnish legal system (Niemivuo, 1991, p. 37). In countries cultivating Nordic traditions, local administration is the responsibility of the local government (Niemivuo, 1991, p. 37).

The Spanish Constitution of 27 December 1978, in Article 133(2), indicates that autonomous communities and local corporations may establish and collect taxes per the Constitution and laws. Article 138 of the aforementioned Constitution, on the other hand, refers to the State guarantee in the form of the effective implementation of the principle of solidarity enshrined in Article 2 of the Constitution, ensuring that a proper and fair economic balance is established between the different parts of the Spanish territory, with particular reference to the conditions peculiar to the islands, and points out that the differences between the statutes of the different Autonomous Communities may not under any circumstances entail economic and social privileges. In addition, Article 142 of the Spanish Constitution stipulates that local finances should have sufficient resources to carry out the tasks which the law entrusts to the relevant corporations; these should come primarily from their own taxes and from their share of taxes for the benefit of the State and the Autonomous Communities. The structure of local government in Spain is three-tier. J. Marczak emphasises that the basic unit is the *municipality* (*el municipio*), the next is the province (*la provincia*) and at the regional level is the autonomous community (*la comunidadautónoma*) (Marczak, 2014, p. 322). Local government in Spain is called local corporations and consists of municipalities and provinces (Marczak, 2014, p. 322-323). Article 137 of the Spanish Constitution of 27 December 1978, in Title VIII - 'On the territorial organisation of the State', expresses the general principle that the State is organised territorially into municipalities, provinces and self-governing autonomous communities. The aforementioned units have autonomy in the management of their affairs. On the other hand, Article 140 of the Spanish Constitution located in Chapter Two - 'On Local Administration', results, *inter alia*, from the constitutional guarantee of the autonomy of the municipalities. Municipalities are granted full legal personality, and it is up to their respective boards, consisting of alcados and councillors, to govern and administer them. According to the wording of Article 141 of the Spanish Constitution of 27 December 1978, a province is to be understood as a local unit with its own legal personality, created by an association of municipalities and in accordance with the territorial division for the exercise of state activities.

The Constitution of the Republic of Lithuania of 25 October 1992 stipulates in Article 121 that self-governments establish and adopt their budgets, while self-governmental councils have the right to levy local taxes, in accordance with the procedure provided by law, and may reduce the prescribed fees and taxes within their budgets. In addition, as follows from Article 127 of the aforementioned Constitution, the budgetary system of Lithuania is formed by the independent state budget of the Republic of Lithuania and the independent budgets of local self-governments. Taxes, compulsory contributions and fees, proceeds from State property and other sources form the income of the State budget. Taxes and other budget receipts and levies are determined by the laws of the Republic of Lithuania. In addition, it is worth noting that according to Article 119 of the Constitution of the Republic of Lithuania located in Chapter X of the Local Government and Governance, the right of self-government shall be provided to the administrative units of the State defined by law and shall be exercised by the competent local government councils. According to Article 120 of the aforementioned Constitution, the State is obliged to support self-governments. In turn, local self-governments act freely and independently, within the framework defined by the Constitution and laws.

In the Netherlands there is a two-tier territorial public administration, i.e. a regional one within which the provinces are distinguished and a local one within which there are municipalities (Helnarska, 2012, p. 147). According to Article 123 of the Constitution of the Kingdom of the Netherlands of 28 March 1814, the creation and abolition of provinces and municipalities is done by law, as is the modification of their boundaries. Provinces and municipalities are headed by provincial states and municipal councils respectively (Article 125(1) of the Constitution). It is true that the Constitution of the Kingdom of the Netherlands of 28 March 1814 contains a relatively extensive provision on the finances of the self-government ow, but the frequent references therein to statutory regulations render it of symbolic value. It would be inappropriate to assign the regulation under consideration to the second group due to the lack of regulations with broader perspectives. It follows from Article 132 of the Dutch Constitution that the creation of provinces and municipalities, the composition and powers of their boards, and the supervision of the boards shall be determined by law. Resolutions of the boards are only subject to prior supervision in cases specified in the law or in the execution of the law. Resolutions of the boards, on the other hand, may only be revoked by royal decree on the grounds of violation of the law or the public interest. The measures to be taken in the event of failure to take the resolution and management action required under Article 124(2) of the Constitution of the Kingdom of

the Netherlands shall be determined by law. The law may also provide measures different from those in Articles 125 and 127 of the Dutch Constitution in the event of serious neglect of their tasks by provincial and municipal boards.

Although not identical, an analogous solution to the regulation in the Dutch Constitution has been included by the French legislature. Both constitutional provisions contain numerous references to statutory regulations. The Constitution of the French Republic of 4 October 1958 contains one provision on the issue of local authorities' finances, which is located in Chapter XII entitled 'On territorial communities'. Pursuant to Article 72-2 of the French Constitution, territorial communities enjoy sources of revenue which they may freely dispose of, under the conditions laid down by law. They may receive all or part of taxes of all types. The law may authorise them to fix the assessment and rates of taxation within certain limits. The fiscal revenue and other own sources of territorial communities constitute, for each category of communities, a basic part of their total sources of revenue. The organic law establishes the conditions under which these rules are introduced. Every delegation of powers between the State and the territorial communities is accompanied by the allocation of adequate resources for their exercise. Every conferral or extension of competences resulting in an increase in the expenditure of the territorial communities is matched by an increase in the appropriations set out in the law. The law also provides equalisation provisions to promote the principle of equality of the territorial communities. However, the Constitution of the French Republic contains general regulations on the communities, and thus, according to Article 72 of the Constitution, the territorial communities of the Republic are communes, departments, regions, communities with special status and overseas communities, whose status is defined by Article 74 of the aforementioned Constitution. M. Marinski emphasises also the existence of, in particular, units with special status (*collectivité à statute particulier*) or overseas communities (*collectivité d'outre-mer*) differentiated in terms of status (Mariański, 2010, p. 268).

The provision of Article 78 of the Constitution of the Republic of Iceland of 17 June 1944 stipulates that municipalities perform their tasks independently, based on the provisions of the law. The sources of revenue of the municipalities and the power of the municipalities to decide whether and how to use the revenue are determined by law.

Article 116 of the Constitution of the Republic of Macedonia of 17 November 1991 indicates that the territorial division of the Republic and the boundaries of the municipalities are determined by law. Article 114 of the Constitution of the Republic of Macedonia of 17 November 1991 indicates, inter alia, that the municipalities shall be

financed from their own sources determined by law and the Republic's resources. Article 115 of this Constitution, in turn, specifically indicates that the municipality is independent in the exercise of its powers as defined by the Constitution and the laws; supervision of the legality of the municipality's activities is exercised by the Republic. According to Article 117 of the Constitution of the Republic of Macedonia, the City of Skopje is financed from its own sources defined by law and the Republic's resources.

The Constitution of the Principality of Monaco of 17 December 1962 makes scant reference to the issue of local government finance. Although it does contain two constitutional provisions on the subject under consideration, they only relate to budgetary matters. In the Principality of Monaco, the budget is enacted chapter by chapter. Transfers from one chapter to another are prohibited, except as permitted by law. The budget includes, inter alia, in the expenditure section, the amounts placed at the disposal of the Municipal Council for the next financial year, per Article 87 (Article 72). The budget of the Municipality is fed from the income from the municipal assets, the ordinary resources of the Municipality and the budget grant included in the original budget law for the year in question (Article 87).

The Constitution of the Turkish Republic of 7 November 1982 contains symbolic regulations in the field of local government finances. According to Article 127 of the Constitution of Turkey, local administration units are public law entities created to meet the common local needs of the inhabitants of provinces, urban districts and villages; the inhabitants elect their constituent bodies in a manner determined by law, and the rules of their organisation are determined by law. The creation, scope and powers of local administration, in accordance with the principle of self-government, shall be determined by law. Units of local administration, with the approval of the Council of Ministers of the President of the Republic, may form an association for the performance of specific public tasks; the tasks, competences, financial resources and security of such associations, as well as their interrelations and relations with the central administration, shall be determined by law. These unions shall be provided, proportionate to their tasks, with financial resources.

The above examples of constitutional regulations show that individual legislators have chosen to include provisions on local government finances in various ways or omit them from the Basic Law altogether. This is undoubtedly related to the model of local self-government adopted in a given state and is linked, among other things, to historical aspects and social issues of individual states. The Constitutions of the Kingdom of Denmark of 5

June 1953, Ireland of 1 July 1937, the Republic of Latvia of 15 February 1922, Malta of 21 September 1964, the Kingdom of Norway of 17 May 1814, the Basic Law of the City State of Vatican City of 26 November 2000 and the constitutional laws of the United Kingdom of Great Britain and Northern Ireland do not contain any provisions regulating local government finances. In contrast, the regulations of the Constitutions of the Republic of Bulgaria of 12 July 1991, the Republic of Croatia of 22 December 1990, the Republic of Cyprus of 16 August 1960, the Czech Republic of 16 December 1992, the Republic of Finland of 11 June 1999, Spain of 27 December 1978, the Republic of Lithuania of 25 October 1992, the Kingdom of the Netherlands of 28 March 1814, The French Republic of 4 October 1958, the Republic of Iceland of 17 June 1944, the Republic of Macedonia of 17 November 1991, the Principality of Monaco of 17 December 1962 and the Turkish Republic of 7 November 1982 address the issue of local government finances in different ways, but in principle it can be assumed that the common feature is their 'symbolic' nature. Indeed, the legislators did not refer to the discussion of the issue in general terms, but focused on strictly selected aspects summarised, often referring to the regulations of the ordinary law.

3. Constitutions regulating the issue of local government finance in a general way

Within the second group, it is necessary to identify the states whose constitutional provisions are broader than the symbolic ones, but at the same time are not covered in excessive detail. Issues of local government finance are presented in general terms in the following constitutions of the European Union Member States:

- Federal Constitutional Act of the Republic of Austria of 1 October 1920,
- Constitution of the Republic of Poland of 2 April 1997,
- Constitution of the Portuguese Republic of 2 April 1976,
- Constitution of Romania of 21 November 1991,
- Constitution of the Slovak Republic of 1 September 1992,
- Constitution of the Grand Duchy of Luxembourg of 17 October 1868,
- Constitution of the Republic of Estonia of 28 June 1992,
- Greek Constitution of 9 June 1975,
- Constitution of the Republic of Slovenia of 23 December 1991,
- Hungary's Basic Law of 25 April 2011,
- Constitution of the Italian Republic of 27 December 1947,

- Constitution of the Kingdom of Belgium of 7 February 1831 and
- Constitution of the Kingdom of Sweden (Form of Government Act of 28 February 1974, Succession Act of 26 September 1810, Freedom of Printing Act of 5 April 1949, Freedom of Expression Act of 14 November 1991).

The framing of local government finance in a general way is also noticeable in the constitutions of other countries located in Europe, which are not Member States of the European Union, namely:

- Constitution of the Republic of Albania of 21 October 1998,
- Constitution of the Principality of Andorra of 14 March 1993,
- Constitution of the Principality of Liechtenstein of 5 October 1921,
- Constitution of the Republic of Moldova of 29 July 1994 and
- Constitution of the Russian Federation of 12 December 1993.

At the outset, it is worth noting that in Austria it is the municipalities that constitute the exclusive level of local government, which is a result of the specificity of local social ties (Jackiewicz, 2019, p. 32). According to Article 115 of the Federal Constitutional Act of the Republic of Austria of 1 October 1920, municipalities should be understood as local municipalities ("Ortsgemeinde"). The interests of the municipalities are represented by the following organisations the Austrian Association of Municipalities and the Austrian Association of Cities. Article 116 (1) of the aforementioned Constitution states that every country is divided into municipalities. A municipality is a territorial corporation with the right of self-government and also an administrative district. Each property belongs to one municipality. As A. Mirska points out, 'Austrian constitutional law comprises not only the constitution itself but the entirety of constitutional norms, explicitly named as constitutional provisions (laws). This means that Austrian constitutional law is a conglomerate comprising more than 2,000 pages of text, 1,400 special regulations and more than 100 constitutional amendments" (Mirska, 2014, p. 48). The literature underlines that Austrian constitutional law represents the most comprehensive collection among EU Member States (Welan, 2007, p. 16 [quoted in:] Mirska, 2014, p. 48). Nevertheless, for the purposes of this thesis it was decided to limit the scope of the analysis to the basic legal act containing the constitutional provisions, i.e. the consolidated text of the Federal Constitutional Act of the Republic of Austria of 1 October 1920. According to article 13 of the Federal Constitutional Act of the Republic of Austria of 1 October 1920, the competence of the federation and the

states in matters of public levies is to be regulated by a separate federal constitutional law (Financial Constitutional Act), and the federation, the states and the municipalities are to strive for economic equilibrium and long-term orderly budgets in their budgetary management. With these goals in mind, they must coordinate the implementation of the budgets. According to article 116 (2) of the aforementioned constitution, the municipality is an autonomous economic entity. Within the limits of the general federal and state laws, it has the right to own, acquire and dispose of property of all kinds, operate economic enterprises and, within the framework of the financial constitution, independently manage its budget and collect taxes. Pursuant to section 119a (2) of the Federal Constitutional Act of the Republic of Austria, the state has the right to audit the municipality's management from the point of view of economy, economy and expediency. The results of the audit are presented to the mayor for submission to the municipal council. The mayor shall notify the supervisory authorities within three months of the measures taken in connection with the results of the audit. It follows from Article 119a (8) of the Constitution that the taking of certain measures by municipalities within their own sphere of action, which have a major impact on supra-local interests, in particular of major financial importance, may be made conditional by the competent legislature (paragraph 3) on the consent of the supervisory authority. Only a state of facts that clearly justifies the priority of supra-local interests may be cited as grounds for not granting such consent. On the other hand, article 121 of the Constitution refers to the control of financial activities carried out by the Federation, countries, associations of municipalities, municipalities and other legal entities as defined by law, to which the Court of Auditors is appointed. Pursuant to Article 127a (1) of the Constitution, the financial management of municipalities with a population of at least 10,000 inhabitants, as well as the management of foundations, funds and establishments administered by municipal bodies or by persons (associations of persons) appointed by municipal bodies, is subject to audit by the Court of Auditors. The control includes accounting regularity, compliance with the applicable regulations, as well as economy, thrift and expediency of management. In the further part of the provision, the legislator refers in more detail to the individual aspects of the auditing procedure, stating in particular that the existing ordinances on the auditing of the budget of municipalities are to be applied analogously to auditing the budget of associations of municipalities.

In accordance with Article 165 of the Constitution of the Republic of Poland of 2 April 1997, local government units have legal personality and are entitled to property and other property rights. The independence of local government units is subject to judicial

protection. The Constitution of the Republic of Poland contains general regulations in the field of local government finances. According to Article 167 of the aforementioned Constitution, local self-government units are guaranteed a share in public revenues per the tasks assigned to them. The own revenues of local government units are considered to be their own revenues as well as general subventions and earmarked subsidies from the state budget. The Constitution also refers to statutory regulations with regard to the sources of revenues of local government units (Article 167(3) of the Constitution of the Republic of Poland) and with regard to the right of local government units to determine the amount of local taxes and charges (Article 168 of the Constitution). The Polish Constitution also provides for regulations on the supervision of local government activities from the point of view of legality (Article 171 of the Polish Constitution). Among other things, the Sejm, at the request of the Prime Minister, may dissolve a local government's decision-making body if that body grossly violates the Constitution or laws.

It follows from Article 235 of the Constitution of the Portuguese Republic of 2 April 1976 that the democratic organisation of the State includes the existence of local government units. The said units are territorial legal entities that have representative bodies that pursue the interests of the local population. On the mainland, local government units are parishes, municipalities and administrative regions, while the autonomous regions of the Azores and Madeira include parishes and municipalities (Article 236(1) and (2) of the Portuguese Constitution). Referring to the constitutional regulations in the field of local government finance, it is worth pointing out, inter alia, Article 237(2) of the Constitution of the Portuguese Republic, according to which the competence of the assembly of a local government unit includes the exercise of powers granted by law, including the adoption of the plan and budget. As follows from Article 238 of the Portuguese Constitution, local government units have their own assets and their own finances. The system of local finances is defined by law and aims at the equitable distribution of public revenues by the State and the local government units, as well as compensating for differences in the necessary extent between territorial units of the same degree. The own revenues of local authority units compulsorily include revenues derived from the management of their own property and revenues collected from the use of their services. Local government units may also exercise tribute authority, in the cases and under the conditions stipulated by law. Under the terms and conditions stipulated by law, municipalities have the right to participate in direct tax revenues and their own tribute revenues (Article 254 of the Constitution).

In Romania, public administration in administrative-territorial units is established on the principles of decentralisation, local self-governance and deconcentration of public services (Article 120 of the Romanian Constitution). According to Article 136 (2) of the Romanian Constitution of 21 November 1991, public property is guaranteed and protected by law and belongs to the State or to the administrative-territorial units. According to the wording of Article 137 of the Romanian Constitution, the formation, management, use and control of the financial resources of the State, administrative-territorial units and public institutions are regulated by law. It follows from Article 138 (1) and (4) of the Romanian Constitution that the national public budget includes the state budget, the state social security budget and the local budgets of municipalities, cities and provinces. Local budgets are drafted, approved and implemented within the framework established by law. Taxes and local fees are determined by the local or provincial councils, within the limits and under the conditions set by law (Article 139 (2) of the Romanian Constitution).

The basic unit of Slovak local self-government is the municipality. Local self-government consists of municipalities and higher territorial units (Article 64 of the Slovak Constitution). A municipality and a higher territorial unit are autonomous territorial administrative units of the Slovak Republic, associating persons permanently residing in their area, the details of which are determined by law (Article 64a of the Slovak Constitution). The constitutional provisions on local government finances refer to the statutory regulations on the revenues of the State budget, the principles of budget management and the relationship between the State budget and the budgets of the territorial units (Article 58(2) of the Constitution of Slovakia). According to Article 59 of the Constitution of the Slovak Republic of 1 September 1992, taxes and levies are divided into state and local taxes and can be imposed by law or on the basis of a law. A municipality and a higher territorial unit are legal entities which, under the terms of the law, independently manage their own property and their financial resources. The municipality and higher territorial units finance their needs mainly from their own revenues and from state subsidies. The law determines which taxes and fees constitute revenue for the municipality and which taxes and fees constitute revenue for the higher territorial units. State subsidies can only be requested within the framework of the law. This is stipulated in Article 65 of the Constitution of the Slovak Republic. In order to protect the public interest, a municipality has the right to merge with other municipalities; a higher territorial unit also has the same right to merge with other higher territorial units. The conditions and the merger, division or abolition of a municipality shall be determined by law (Article 66 of

the Constitution of the Slovak Republic). The Constitution of the Slovak Republic also provides in Art. 60 regulates the control of the management of, inter alia, budget funds, which are adopted by the Supreme Council of the Slovak Republic or the Government in accordance with the law, property, property rights, financial resources, liabilities and receivables of the State, public-law institutions, the National Property Fund of the Slovak Republic, municipalities, higher territorial units, legal entities with property participation of municipalities, legal entities with property participation of higher territorial units, legal entities established by municipalities or legal entities established by higher territorial units. This audit is carried out by the Supreme Audit Office of the Slovak Republic.

Luxembourg has a single-tier local government comprising the municipalities (Helnarska, 2012, p. 171). In addition to these, there are also three districts, which are included in the government administration and carry out control activities over the municipalities (Helnarska, 2012, p. 171). The financial regulation of municipalities is contained, inter alia, in Article 99 of the Constitution of the Grand Duchy of Luxembourg of 17 October 1868. The provision notably implies the principle of the exclusivity of the law for the imposition of taxes. By contrast, a municipal expense or tax may only be established with the municipal council's approval. The law specifies exceptions, concerning municipal taxes, which prove to be necessary in practice. According to Article 102 of the Constitution of the Grand Duchy of Luxembourg, except in cases expressly excluded by law, any financial provision may only be required of citizens or public establishments by way of taxation for the benefit of the State or the municipality. According to Article 107 (1) of the Constitution located in Chapter IX "Municipalities", municipalities are autonomous communities, organised on a territorial basis, endowed with legal personality and managing their own property and interests with the help of their bodies. The Council sets the municipal budget every year and adopts a report on its implementation. The council establishes municipal ordinances, except in cases of urgency, and may establish municipal taxes, with the approval of the Grand Duke, and the Grand Duke has the right to dissolve the council. The law regulates the supervision of municipal governance. It may subject certain acts of municipal bodies to the approval of the supervising authority and may even provide for their annulment or suspension in cases of illegality or general interest, without prejudice to the powers of the ordinary and administrative courts.

According to Section 155 of the Constitution of the Republic of Estonia of 28 June 1992, local government units are counties and cities. Other units of local self-government may be established on the basis and in the manner prescribed by law. As J. Ciechanowska

points out, the current system of local self-government in Estonia is single-tier and operates at the level of municipalities (Ciechanowska, 2016, p. 51). Estonia's 226 municipalities are divided into 33 urban (*linn*) and 193 rural (*vald) municipalities* and may divide into smaller units (Ciechanowska, 2016, p. 51). Section 32 of the Constitution of the Republic of Estonia implies, among other things, the principle of protection and inviolability of property. The deprivation of property without the owner's consent is permitted only in cases and in the manner prescribed by law for public needs and with just and immediate compensation. Anyone whose property has been expropriated without his or her consent has the right to go to court and challenge the expropriation of the property and the nature or amount of compensation. Everyone has the right to freely own, use and dispose of his or her property. Restrictions are defined by law. Property must not be used contrary to the general interest. In the general interest, the Act may determine the types of property that only Estonian citizens, certain legal persons, local governments or the Estonian State may acquire for ownership in Estonia. According to § 133(3) of the Estonian Constitution, the use and management of state property transferred to local governments is subject to state control. Reference should also be made to § 154 of the Constitution, according to which local governments decide and regulate all local matters acting independently within the framework of the applicable law. Obligations can only be imposed on local governments by law or with their consent. The state budget covers expenses related to the performance of state duties imposed on local governments. In turn, it follows from Section 157 of the Constitution of the Republic of Estonia that the local government has its own budget, the rules and procedure for the formation of which are determined by law. The local self-government has the right within the framework of the laws to determine and collect taxes and impose obligations.

It follows from Article 73 of the Greek Constitution of 9 June 1975 that the right of legislative initiative is vested in the Chamber of Deputies and the Government. Bills concerning monetary benefits of all types and the conditions for their disbursement shall be brought exclusively by the Minister of Finance after consulting the Chamber of Accounts. In the case of pecuniary benefits charged to the budget of local authorities or other public legal entities, the initiative belongs to the competent minister and the Minister of Finance. Draft laws on cash benefits should be brought separately; the inclusion of clauses on cash benefits in laws regulating other matters is prohibited under the sanction of nullity. It also follows from the cited provision that no bill, amendment or additional provision brought before the Chamber of Deputies may be debated if it would entail

monetary outlays on the part of the state, local governments or other public legal entities, expenses or a reduction in their income or assets, related to the necessity of paying emoluments or benefits or providing material benefits to anyone. Amendments or additional provisions submitted by the leader of a party or representative of a parliamentary group, in accordance with the provisions of Article 74(3) of the Constitution under review, on draft laws regulating the organisation of public services and public utility institutions, the general status of public officials, military and security officers, officials of local governments or other public legal persons, and those employed in public enterprises, are considered admissible. The provision also stipulates the obligation of the countersignature of the Minister of Coordination and the Minister of Finance in the case of government draft laws introducing local or special taxes or any levies in favour of organisations or public legal persons or private legal persons. On the other hand, article 98 of the Greek Constitution refers specifically to the control of local government expenditure and local government accounts by the Chamber of Accounts. Article 102 provides for a presumption of competence in favour of local governments in the management of local affairs. The management of local affairs is the responsibility of first and second tier local governments. The law defines the scope and categories of local affairs and their allocation to the different levels. The law may entrust local governments with the exercise of competences that constitute state tasks. The legislature also emphasises the administrative and financial autonomy Greek local governments enjoy.

The State shall apply the legislative, regulatory and financial measures needed to guarantee the aforementioned financial autonomy and the funds necessary for the performance of the tasks and competences of the local governments, while ensuring the transparency of the management of these funds. The law lays down the rules for the allocation and distribution among local authorities of taxes and tributes established in their favour and collected by the state. The transfer of competences of central or territorial state bodies to local governments entails the transfer of the corresponding funds. The rules for determining and collecting local funds directly by local governments are laid down by law.

According to Article 138 of the Constitution of the Republic of Slovenia of 23 December 1991, the inhabitants of Slovenia participate in local self-government in municipalities and other local communities. In turn, as follows from Article 139, a municipality is a self-governing local community and its area may include one or several settlements linked by the common needs and interests of the inhabitants. A commune is created by a law, the enactment of which is preceded by a referendum to express the will

of the inhabitants of a given area. The boundaries of a municipality are defined by law. As Article 141 of the Slovenian Constitution statutes, a city has the possibility to obtain the status of a municipal municipality in the procedure and under the conditions stipulated by law. A city municipality may also perform as its own tasks belonging to the State, if they concern urban development. The Constitution of the Republic of Slovenia of 23 December 1991 also contains several provisions regulating local government finances. According to Article 140 of the Constitution, the competence of the municipality includes local affairs which the municipality may carry out independently and which concern only the inhabitants of the municipality. By means of a law, the state may transfer to the municipality the performance of particular tasks falling within its sphere of action, provided that it provides the financial means to do so. With regard to the tasks delegated by the state to the bodies of local communities, the state bodies exercise supervision over the correctness of their operation. Article 142 of the Constitution provides for municipalities to derive their revenue from their own sources. In the event that a municipality, due to a low level of economic development, cannot fulfil its tasks in full, the State shall, in the manner and to the extent determined by law, transfer additional funds to it. On the other hand, article 143 of the Constitution of the Republic of Slovenia refers to the region, which is a self-governing local community. The State, by law, transfers to the region the performance of specific tasks falling within its sphere of action and must provide adequate financial resources for this. As it follows from Article 146 of the Slovenian Constitution, the State and local communities obtain funds for the performance of their tasks from taxes and other levies, as well as from revenues derived from their own property. The state and local communities publish income and financial burdens data in their respective asset declarations. Pursuant to Article 147 of the Constitution, the State, on the basis of laws, establishes taxes, duties and other levies. Local communities establish taxes and other levies within the limits set by the Constitution and laws. Their budgets cover the revenues and expenditures of the State and local communities to finance public activities. Suppose the budget has not been adopted by the date from which it should be implemented. In that case, the expenditures of the State or local community are temporarily implemented on the basis of the budget previously in force (Article 148 of the Constitution of the Republic of Slovenia).

In order to manage public affairs and exercise public authority at the local level, there are local governments in Hungary (Article 31 of the Basic Law of Hungary). The Basic Law of Hungary of 25 April 2011 contains several provisions relating to the issue of

local government finances. It follows from Article 32(1)(f), (g) and (h) that, in the administration of public affairs at the local level, the local government, within the scope of the law, establishes its budget and, on that basis, conducts independent financial management, may carry out economic activities using its resources and revenues, provided that this does not jeopardise the fulfilment of its statutory tasks, and decides on the types and level of local taxes. In turn, according to Article 34 (1), (4), (5) and (6) of the legal act under review, local governments and state bodies may cooperate in the interest of achieving community objectives. The law may define mandatory tasks and areas of activity for local governments. The local self-government is entitled to receive support from budgetary funds according to the expenditures incurred for the implementation of tasks in the designated areas of activity. The government, through the capital and provincial state offices, provides legal supervision of local government units. With a view to maintaining budgetary balance, the law may stipulate the conditions for borrowing, the amount of credit and the conditions for undertaking other obligations by a local government unit, and may also make this subject to the consent of the Government. Local governments' property is public property, which serves the purpose of fulfilling their statutory tasks. As stipulated in Article 38(1) of the Basic Law of Hungary, the property of the State and local governments constitutes national property. The management and protection of national assets should serve the public interest, the satisfaction of public needs, the preservation of natural resources, and the consideration of the needs of future generations. The Organic Law lays down the requirements for the preservation and protection of national assets and the responsible management of national assets. Pursuant to Article 38(2) of the Constitution under review, the scope of exclusive state property and the exclusive economic activities of the state, as well as the limitations and conditions for the state to take over national assets of particular importance to the national economy for the purposes listed in paragraph 1, shall be determined by the Organic Law. On the other hand, national assets may only be transferred for the purposes and with the exceptions stipulated by law, with due proportion between their price and value. A contract for the transfer of national property or its use may only be concluded with organisations whose ownership and organisational structure, as well as the manner of management of the national property transferred to them or put into use, are transparent. As stipulated by Article 38(5) of the Hungarian Constitution, economic organisations owned by the state and local governments, while complying with the law, shall carry out economic activities in the manner prescribed by law, independently and responsibly, in accordance with the requirements of expediency and profitability.

The unitary and indivisible Italian Republic recognises and promotes local self-government, realises in the activities of the services subject to the State the widest administrative decentralisation; it adapts the principles and system of its legislation to the requirements of self-government and decentralisation, which follows directly from the wording of Article 5 of the Constitution of the Italian Republic of 27 December 1947. According to Article 114 of the Constitution, the Republic consists of municipalities, provinces, metropolitan cities, regions and the State. Municipalities, provinces, metropolitan cities and regions constitute autonomous units with their own statutes, authorities and competences according to the rules established by the Constitution. Rome is the capital of the Republic. The law of the state governs its system. From the perspective of the analysis in question, the provision of Article 119 of the Constitution of the Italian Republic of 27 December 1947, according to which municipalities, provinces, metropolitan cities and regions have financial autonomy regarding revenue and expenditure, is relevant. Municipalities, provinces, metropolitan cities and regions have autonomous sources of revenue. They determine and apply their own taxes and revenues, per the Constitution and the principles of coordination of public finances and the tax system. They dispose of a share of the profit from the State's fiscal taxes relating to their territories. The Law of the State shall create a matching fund, without restrictions on its destination, for territories whose inhabitants have a lower tax capacity. The funds from the sources referred to in the preceding paragraphs shall allow municipalities, provinces, metropolitan cities and regions to finance the public tasks imposed on them fully. The Italian Republic shall allocate additional resources and make special interventions in favour of specific municipalities, provinces, metropolitan cities and regions in order to stimulate economic development, cohesiveness and social solidarity, to remove economic and social inequalities, to promote the effective realisation of the rights of the person or to provide for purposes other than the normal exercise of functions. Italian municipalities, provinces, metropolitan cities and regions have their own assets, allocated according to the general rules laid down by State law. They can only generate debt to finance capital expenditure. In contrast, the state is excluded from guaranteeing loans under such contracts. According to the wording of Article 120 of the Constitution of the Italian Republic, the region may not set import or export duties or transit duties between regions, nor may it enact legislation that impedes in any way the free movement of persons and goods between regions, nor restrict the exercise of the right to work in any part of the national territory. The government may take the place of regional, metropolitan city, provincial and municipal authorities in the event that they

fail to respect international norms and agreements or Community regulations or in the event of a serious threat to life and public order, or when the protection of legal unity or economic unity and, in particular, the protection of an important level of civil and social benefits so requires, regardless of the territorial limits of local authorities. The law lays down procedures to ensure that substitute powers are exercised in a manner that respects the principle of subsidiarity and the principle of loyal cooperation.

In accordance with the provisions of Title I of the Constitution of the Kingdom of Belgium of 7 February 1831 entitled "On the Belgian Federation, its constituent parts and territory", Belgium is a federal state composed of three communities, i.e. the French Community, the Flemish Community and the German-speaking Community, and three regions, i.e. the Walloon Region, the Flemish Region and the Brussels Region. The Walloon Region comprises the following provinces: Walloon Brabant, Hainaut, Liege, Luxembourg and Namur. The Flemish Region comprises the provinces of: Antwerp, Flemish Brabant, West Flanders, East Flanders, Limburg. The division of Belgium is also noticeable at the linguistic level. In this respect, a French language region, a Dutch language region, a bilingual Brussels capital region and a German language region are distinguished. Each municipality of the Kingdom is part of one of these language regions. However, moving on to the regulation of local government finances, reference should be made at the outset to Article 162 of the Constitution of the Kingdom of Belgium. According to the cited provision, the institutions of provinces and municipalities are regulated by laws. The law guarantees the application of several principles, including the principle of openness of the budget and the report on its execution. Article 170 § 1 of the Constitution under review indicates that taxes in favour of the state can only be introduced by law. Taxes in favour of communities and regions may only be established by decree or by an act of a regional body, as referred to in Article 134 of the Constitution. The law defines the necessary exceptions for taxes. Taxes and levies in favour of provinces may only be imposed by decisions of the provincial council. Burdens and taxes may be established by agglomerations, federations of municipalities and by municipalities only by decisions of their councils. Taxes in favour of the state, the community and the region shall be enacted annually. The provisions establishing them remain in force for a period of one year unless renewed (Article 171 of the Constitution). No privileges may be introduced in the field of taxation. Tax exemptions and concessions may only be established by law (Article 172 of the Constitution). Except in the case of provinces, polders and waterings, and except in cases expressly excluded by the law, decree or act referred to in Article 134, additional burdens on citizens for the

benefit of the State, community, region, agglomeration, federation of municipalities or municipality may only be imposed in the form of taxes (Article 173 of the Constitution).

The Constitution of the Kingdom of Sweden is not a single piece of legislation, as it consists of the Form of Government Act of 28 February 1974, the Succession Act of 26 September 1810, the Freedom of Print Act of 5 April 1949 and the Freedom of Expression Act of 14 November 1991. According to Section 1 of the Form of Government Act of 28 February 1974, Chapter I, all public power in Sweden is derived from the people. The Swedish system is based on freedom of expression and universal and equal suffrage. It is implemented through a representative and parliamentary government and municipal self-government system. Public authority is exercised within the framework laid down by law. According to § 7 of the aforementioned Act, the state is divided into local and regional self-government units. Section 8 of the Form of Government Act, on the other hand, states that the courts exercise the administration of justice and that public administration is a matter for state and municipal public authorities. Normative acts are issued in the form of a law if they concern the rules of organisation of the municipality and the forms of its activities and municipal taxes, as well as the powers and tasks of the municipality in other matters. In principle, the Riksdag has the right to authorise a municipality to issue ordinances if they concern fees or taxes for the organisation of traffic in the municipality. A request for an opinion of the Legislative Council is made by the Government or, in cases specifically provided for in the Riksdag Act, by a committee of the Riksdag. The opinion of the Legislative Council must be obtained before the Riksdag makes a decision on a municipal tax act or an act determining the obligations of municipalities. As can be seen from Section 1 of Chapter 14 Municipalities, the decision-making power in municipalities is vested in elected assemblies. Municipalities, guided by the principle of self-government, are responsible for resolving local and regional issues in the public interest; detailed provisions on the scope of the tasks to be performed are laid down by law. Guided by the same principle, municipalities shall also perform other tasks specified by law (§ 2). The limitation of local self-government should not go beyond the purpose that was the reason for the limitation (§ 3). Municipalities have the right to levy taxes for the performance of their tasks (§ 4). According to the law, municipalities may be obliged to contribute to the costs incurred by other municipalities if this is necessary to achieve equal financing conditions (§ 5). The rules for changes in the distribution of the Kingdom to municipalities are laid down by law (§ 6).

The treatment of local government finance in a general way is also noticeable in the constitutions of other countries located in Europe which are not Member States of the European Union, i.e. the Constitution of the Republic of Albania of 21 October 1998, the Constitution of the Principality of Andorra of 14 March 1993, the Constitution of the Principality of Liechtenstein of 5 October 1921, the Constitution of the Republic of Moldova of 29 July 1994 and the Constitution of the Russian Federation of 12 December 1993.

According to Article 108(1) of the Constitution of the Republic of Albania of 21 October 1998, local self-government units are municipalities or municipalities and districts. Other units of local self-government are defined by law. The administrative-territorial division of the units of local self-government is determined by law on the basis of needs and common economic interests and historical tradition. Their boundaries may not be changed without prior consultation with the inhabitants. Municipalities and urban municipalities are the basic units of local self-government. They perform all local government tasks, except those reserved for other local government units. According to Article 110 (1) and (2) of the aforementioned Constitution, the District is the unit in which regional policy is constructed and implemented and in which it is harmonised with state policy and consists of several basic units of local government linked by ties of tradition, economic and social ties and common interests. It follows from Article 111 of the Constitution of the Republic of Albania that local self-government units have an independent budget, which is created in the manner provided by law. In turn, according to Article 112 of the Basic Law, local self-government units may be delegated by law the competences of the state administration. The expenses incurred for the performance of these tasks shall be borne by the state. On the other hand, the imposition of obligations on local self-government bodies may only take place on the basis of a law or in accordance with agreements they have concluded. The state budget covers expenses related to the duties imposed by law on local self-government bodies. The councils of municipalities, urban municipalities and districts have the right to collect and spend the funds that are necessary for the performance of their functions and have the right to establish, in accordance with the law, local taxes, as well as to determine their amount (Article 113(1)(c) and (d)). Article 155 of the analysed Constitution stipulates that a law shall determine national and local taxes, fees and financial obligations, establish concessions or exemptions for certain categories of taxpayers, as well as the method of collection. In these matters, the law may not act retroactively. On the other hand, according to the literal wording of Article

157 of the Basic Law of Albania, the budgetary system consists of the state budget and local government budgets, and the local government bodies determine and collect taxes and other obligations in the manner prescribed by law.

Pursuant to Article 79 of the Constitution of the Principality of Andorra of 14 March 1993, the municipalities, as representative and administrative bodies of the parishes, are public territorial entities with legal personality and the competence to enact local laws in accordance with the laws in the form of ordinances, bylaws and decrees. Municipalities, within the limits of their powers, which they exercise in accordance with the Constitution, laws and tradition, act in accordance with the principle of administrative autonomy recognised and guaranteed by the Constitution. The municipalities represent the interests of the parishes, adopt and implement the municipal budget; within their territory, they define and carry out public policies within the scope of their competences and manage and administer parish assets, both public and private, as well as those forming part of the Legacy. Their executive bodies are democratically elected. In turn, as it follows from Article 80 of the Constitution, within the framework of administrative and financial autonomy, the competences of the Municipalities are defined in the Organic Law. The competences of the Municipalities relate in particular to such matters as trade, industry and professional activities, the own and public assets of the Municipalities or natural resources. Considering the state's prerogatives, the Organic Law defines the competences of the Municipalities in economic and fiscal matters. These competences mainly concern the revenue and exploitation of natural resources, traditional taxes and fees for municipal services, administrative permits, the opening of commercial, industrial and professional activities and fees related to real estate ownership. The State's competences may be transferred to the parishes by law. In order to ensure the economic autonomy of the Municipalities, the Organic Law sets out the rules for the transfer of funds from the general budget to them, with a portion equal for all parishes and a variable portion in proportion to the size of the population of the Municipality, the extent of the area and other factors (Article 81 of the Constitution).

Local self-government's legal and financial issues are also dealt with in general terms in the Constitution of the Principality of Liechtenstein of 5 October 1921. The Principality of Liechtenstein has the right of sovereignty over hunting, fishing and mining; by enacting laws in these areas, it protects the interests of agriculture and the finances of the municipalities (Article 22). The public social welfare system, to the extent regulated by the relevant laws, is the responsibility of the municipalities. However, the state exercises a

supervisory function in this respect. It may assist the municipalities with appropriate subsidies, in particular for the care of orphans, the mentally ill, the terminally ill and the elderly (Article 25). In the Principality of Liechtenstein, property rights and all other property rights are guaranteed to churches and religious associations with respect to their institutions, foundations and other property assets for cultural, teaching and charitable tasks. A separate law regulates the management of church property in ecclesiastical communities; care must be taken to reach agreement with the church authorities before enacting such a law (Art. 38). Any law passed by the Landtag and not deemed urgent by it, and any financial resolution not deemed urgent that results in a one-off expenditure of at least 500,000 francs or an annual recurrent expenditure of 250,000 francs shall be subject to a referendum if the Landtag passes such a resolution, or if at least 1,000 citizens entitled to vote or three municipalities submit a request to that effect in the manner provided for in Art. 64, within 30 days of the official publication of the Landtag resolution (Art. 66). The state, municipalities and other communities, establishments and foundations under public law shall be liable for the damage of the persons who caused it, as their representatives in the course of their official activities. In the case of intentional acts or gross negligence, a right of recourse is reserved to those who are directly responsible for the damage. Persons acting on behalf of bodies shall be liable to the State, the municipality and other communities, institutions and foundations under public law in whose service they are, for damage caused to them directly, intentionally or as a result of gross negligence of their official duties. (Article 109). Laws concerning municipalities should take into account, in particular, the principle of self-management of municipal assets (Article 102(2)(b)).

According to Article 72(3)(f) of the Constitution of the Republic of Moldova of 29 July 1994, organic laws regulate the organisation of local administration, territorial division, as well as the general principles of local self-government. According to Article 110 of the Constitution, the administrative structure of the territory of the Republic of Moldova consists of municipalities, cities, regions and the Autonomous Territorial Unit of Gagauzia. Under the conditions stipulated by law, certain towns may be granted the status of a separate town. It is allowed to grant special forms and rules of local autonomy to the localities on the left bank of the Dniester, according to the special status adopted by the Organic Law. The status of the capital of the Republic of Moldova, the city of Chisinau, is determined by the Organic Law. The provision of Article 111 of the Moldovan Constitution regulates the Autonomous Territorial Unit of Gagauzia, which is an autonomous territorial unit with a special status, being a form of self-determination for Gagauzians, is an integral

and inalienable part of the Republic of Moldova and independently solves, within the limits of its competence, in accordance with the provisions of the Constitution of the Republic of Moldova, and in the interests of the whole society, problems of political, economic and cultural nature. The budget of the Autonomous Territorial Unit of Gagauzia is created in accordance with the provisions of the law defining the special status of Gagauzia. According to Article 131 (1) of the Constitution of the Republic of Moldova, the national public budget includes the state budget, the state social security budget and the budgets of districts, towns and municipalities. In turn, it follows from Article 131 (5) and (6) of the Basic Law that the budgets of districts, cities and municipalities shall be prepared, adopted and implemented in accordance with the law, and no budget expenditure may be approved without first determining the sources of its financing.

Taxes, fees and all other revenues of the state budget and the budget of the state social security, district, city and municipal budgets shall be established, according to the law, by the respective representative bodies. All other forms of taxation are prohibited (Article 132 of the Constitution).

In accordance with Article 131 of the Constitution of the Russian Federation of 12 December 1993, local self-government in the Russian Federation functions in urban and rural settlements and other areas taking into account local historical and other traditions. The structure of local self-government bodies is determined independently by the population. It is possible to change the boundaries of the areas where local self-government is implemented, taking into account the opinion of the population of these areas. As follows from Article 132 of the Basic Law, local self-government bodies independently manage municipal property, create, approve and implement the local budget, establish local taxes and fees, guard public order, as well as resolve other issues of local importance. Certain state powers may be delegated to local government bodies by law, together with the transfer of the material and financial resources necessary for their implementation. The implementation of the delegated powers is subject to state control.

4. Constitutions containing detailed regulations on local government finance

The third group considers the constitutions of European countries, which contain much more detailed regulations on local government finance than the basic laws of the countries listed in the second group. In this section, selected provisions will be analysed:

- Basic Law of the Federal Republic of Germany of 23 May 1949,
- Constitution of the Republic of Serbia of 30 September 2006,
- Constitution of the Swiss Federal Confederation of 18 April 1999 and
- Constitution of Ukraine of 28 June 1996.

The basic laws contained detailed regulations not found in the states' constitutions in groups one and two.

According to Article 28 (2) of the Basic Law of the Federal Republic of Germany of 23 May 1949, municipalities must be guaranteed the right to regulate all local affairs on their own responsibility within the framework of the laws. Associations of municipalities are also entitled to self-government within the scope of their statutory tasks and in accordance with the provisions of the laws. The guarantee of self-government also extends to the bases of their own financial responsibility, including the tax source of municipalities, which have the right to set land and business tax rates, depending on their economic potential. As is apparent from paragraph 1 of Article 104b of the Constitution, the Federation may, insofar as this Basic Law confers legislative competence on it, provide the Länder with financial assistance in cases of investments of particular importance to the states and municipalities (associations of municipalities) that are necessary to prevent disruption of the overall economic balance or to even out differences in economic potential within the Federation or to promote economic growth. Contrary to the provisions of the first sentence, the Federation, in the case of a natural disaster or emergency situations, which are not subject to state control and which significantly burden the state's financial situation, may also grant financial assistance without legislative competence. It follows from Article 105(2a) of the Constitution that the Länder have legislative powers with regard to local consumption and expenditure taxes as long as and insofar as these are not of the same kind as taxes regulated by federal laws. They are also entitled to set the rate of tax on the acquisition of real estate. In contrast, federal laws on taxes the proceeds of which accrue in whole or in part to the Länder and municipalities (associations of municipalities) require the consent of the Bundesrat. Article 106 (1) of the Constitution stipulates that profits from financial monopolies and the proceeds of certain taxes accrue to the Federation. Article 106 (2) in turn determines the revenue accruing to the Länder from taxes, and Article 106 (3) of the Constitution refers to revenue from personal and corporation tax and turnover tax which accrue jointly to the Federation and the Länder (joint taxes) insofar as revenue from personal income tax under paragraph (5) and revenue from turnover tax under paragraph

(5a) is not allocated to municipalities. Municipalities shall be entitled to a share of the personal income tax revenue, which the Länder shall transfer to the municipalities on the basis of the income tax paid by its residents. The details are determined by a federal law requiring the consent of the Bundesrat. It may specify that the municipalities will determine the rates of their share. Municipalities have been entitled to a share of turnover tax revenue since 1 January 1998. Proceeds from land and business taxes accrue to municipalities, and proceeds from local consumption and expenditure taxes accrue to municipalities or, on the basis of national legislation, to associations of municipalities. Municipalities must be granted the right to set the rate of land tax and business tax within the framework of the laws. Of the Länder's share of the total revenue from joint taxes, municipalities and associations of municipalities shall be entitled to a percentage determined by Land legislation. In addition, Länder legislation determines whether and to what extent municipalities (associations of municipalities) are entitled to the proceeds of domestic taxes. Also noteworthy are the provisions of Articles 107-110 of the Basic Law of the Federal Republic of Germany of 23 May 1949.

The Constitution of the Republic of Serbia of 30 September 2006 specifically regulates parts of the Basic Law concerning, inter alia, the equality of all forms of property or public finance. According to Article 86 of the Constitution, private, cooperative and public property is guaranteed. Public property consists of state property, the property of autonomous provinces and the property of local government units. All forms of property are subject to equal legal protection. According to Article 91 of the Constitution, the resources used to finance the scope of activities of the Republic of Serbia, autonomous provinces and local self-government units are derived from taxes and other revenues determined by law. The obligation to pay taxes and other fees is universal and based on the taxpayer's ability to pay. The legislator also includes relevant regulations in Article 92 of the Constitution, according to which the Republic of Serbia, autonomous provinces and local self-government units have their own budgets including revenues and expenditures from which their activities arising from the competences granted to them are financed. The law specifies the date by which the budget must be adopted and the methods of provisional financing. The implementation of all budgets is controlled by the State Audit Institution. The National Assembly considers the budget implementation proposal on the basis of the opinion of the State Audit Institution. The Republic of Serbia, autonomous provinces and local self-government units may incur debt. The conditions and procedure for incurring debt are determined by law (Article 93). The regulation of local government finances is

also contained in Articles 183, 184, 188, 190 and 191 of the Constitution of Serbia. Autonomous provinces manage provincial assets in the manner prescribed by law. According to the Constitution and the law, autonomous provinces are provided with their own revenues, provide local self-government units with the means to perform the tasks entrusted to them, approve their budget, and evaluate its implementation. Autonomous provinces have separate revenues of their own from which they finance their activities. The types and amount of direct revenues of the autonomous provinces are determined by law. The Law determines the share of autonomous provinces in the share of revenues of the Republic of Serbia. The budget of the autonomous province of Vojvodina shall be at least 7% of the budget of the Republic of Serbia, with the provincial budget of the autonomous province of Vojvodina being used for three sevenths of the budget for investment purposes. The functioning of the local self-government units shall be financed from the own revenues of the local self-government units, the budget of the Republic of Serbia, in accordance with the Law, and the budget of the autonomous provinces, when the autonomous province has delegated to the local self-government units the performance of tasks within its competence in accordance with the resolution of the Assembly of the autonomous province.

The Federal Constitution of the Swiss Confederation of 18 April 1999 contains numerous and detailed constitutional provisions within the field of local government finance. As can be seen from Article 46 of the Constitution, the cantons implement federal law in accordance with the Federal Constitution and the laws. The Federation leaves the cantons as much freedom as possible to shape the legal relations and considers the cantons' distinctiveness. The Federation shall take into account the financial burden of implementing federal law, leaving sufficient sources of funding to the cantons and seeking appropriate financial compensation. In accordance with Article 76(4) of the Constitution, the cantons dispose of water resources and may, within the limits of federal legislation, set charges for the use of water. The Federation has the right to use the water for its communication enterprises; it pays a fee and compensation. In turn, according to Article 76(5) of the Constitution, rights on international water resources and the related fees are decided by the Federation, involving the cantons concerned. If the cantons cannot agree on the rights to use inter-cantonal water resources, the Federation shall decide. Pursuant to Article 85 of the Constitution, the Federation may levy tolls on lorries depending on the type of service or use of the road, if lorry traffic causes public costs that are not covered by other benefits or charges. The pure profit from the tolls will be used to cover the costs that remain in connection with the traffic. The cantons shall participate in the said pure profit.

However, the particular importance of the tolls for mountain regions and their fringes must be taken into account when determining the shares. Article 86 of the Basic Law allows the Federation to collect consumption tax on fuel and other road tolls. The Federation shall earmark half of the pure profit from the consumption tax on propellants and half of the pure profit from the tolls on national roads for, inter alia, a general contribution to the costs of the cantons for the maintenance of roads open to motor vehicle traffic and for the financial compensation of costs in terms of road construction and maintenance and contributions to cantons without national roads and to cantons with alpine roads that serve international traffic. Insofar as these measures prove insufficient, the Federation shall set surcharges on the consumption tax. Pursuant to Article 98 of the Constitution, the Federation shall issue regulations on banking and stock exchanges; in doing so, it shall take into account the specific tasks and position of the cantonal banks, but may also issue regulations on financial services in other respects. According to Article 99 of the Basic Law, the Federation's competence includes the system of monetary and currency relations; it alone has the right to mint coins and issue banknotes. The Swiss National Bank creates sufficient foreign exchange reserves from its income; part of these reserves are held in gold. The Swiss National Bank's pure profit goes at least two-thirds to the cantons. As stipulated in Article 100 of the Constitution of the Swiss Federal Confederation, the Federation shall take measures for balanced economic development, especially for the prevention and combating of unemployment and high prices, and shall take into account the economic development of the various regions of the country and cooperate with the cantons and the business community. With regard to the monetary and credit system, in foreign trade and in public finance, the Federation may deviate from the principles of economic freedom if necessary. The Federation, the cantons and the municipalities shall take account of the economic situation in their revenue and expenditure policies. The Federation may oblige enterprises to create reserve jobs; it provides tax relief for this and may oblige the cantons to do so. Once the reserves have been released, enterprises are free to decide on their use within the framework of the statutory purposes of designation. Per Article 111 of the Constitution, the Federation takes measures to provide sufficient security for old age, widows, widowers and orphans and invalids. These are based on three pillars, namely federal old-age insurance, for widows, widowers and orphans and invalids, occupational insurance and individual insurance. The Federation shall ensure that the federal old-age, widow's and orphan's and invalidity insurance and the occupational insurance can fulfil their purpose in a sustainable manner. However, the Federation may oblige the cantons to exempt the establishments of

the federal old-age, widow's, widower's and orphan's and invalidity insurance as well as the occupational insurance, and provide the insured and their employers with tax relief on premiums and future claims. The Federation, in cooperation with the cantons, promotes individual insurance, in particular by means of tax and ownership policy measures. As stipulated in Article 112 of the Constitution, insurance for old age, widows, widowers and orphans and on account of invalidity is financed, inter alia, by the benefits of the Federation and, insofar as the law so provides, of the cantons. The benefits of the Federation and the cantons together amount to at most half of the expenditure. The Federation's benefits are primarily covered by the pure profit from the tobacco tax, the spirits tax and the gambling levy. Pursuant to Article 114 of the Basic Law, unemployment insurance is financed by the contributions of the insured, with employers paying half of the contribution for their employees. In emergency situations, the Federation and the cantons grant financial benefits. As per Article 123 of the Constitution, the Federation may provide subsidies to the cantons for the construction of establishments, the improvement of the execution of penalties and remedies, facilities that implement educational undertakings for children and adolescents and juveniles. The Federation shall maintain a sustainable balance between its expenditures and revenues and shall avoid any shortfall in its balance sheet, taking into account the economic situation (Article 126 of the Constitution). Double taxation between cantons is prohibited. The Federation shall take the necessary measures (Article 127(3)). Under Article 128 of the Constitution, the Federation has the right to levy certain taxes. In setting tariffs, the Federation shall take into account the burden of direct taxes on the cantons and municipalities (Article 128(2)). The taxes are assessed and collected by the cantons. Of the gross tax revenue, three-tenths shall accrue to the cantons; of this, at least one-sixth shall be used for financial equalisation between the cantons (Article 128(4)). The Federation shall lay down rules for the harmonisation of direct taxes by the Federation, the cantons and the municipalities; in doing so, it shall take into account the cantons' efforts to harmonise them. Harmonisation extends to the tax obligation, the object and periodic assessment of taxes, the procedure and the criminal law of taxation. In particular, tax tariffs, tax rates and tax-free dues are excluded from harmonisation. The Federation may issue regulations to prevent unjustified tax privileges. The harmonisation of taxes is provided for in Article 129 of the Swiss Basic Law. The Federation's ability to levy taxes also derives from Articles 130, 131 and 132 of the Constitution. The cantons receive 10 % of the pure income from the spirits tax. These funds are to be used to combat the causes and consequences of addiction. In turn, the exclusion of cantonal and municipal taxation

follows from Article 134 of the Basic Law, according to which cantons and municipalities may not charge tax on the same type of object that federal legislation designates as the subject of value-added tax, special consumption taxes, tax collected in the form of stamps and settlement tax or declares tax-free. The Constitution also regulates financial equalisation between cantons (Article 135).

According to Article 56 of the Constitution of Ukraine of 28 June 1996, everyone has the right to compensation, from the funds of the state or local self-government bodies, for material or moral damage caused by unlawful decisions, actions or inactions of state authorities, local self-government bodies, public officers and officials of these bodies in the performance of their duties. Village, settlement, city councils may authorise, on the initiative of the inhabitants, the establishment of building, street or quarter councils and other self-governing bodies of the population and the transfer to them of part of their own powers, finances and property (Article 140 of the Constitution). The material and financial basis of local self-government is constituted by movable and immovable property, revenues of local budgets, other resources, land, natural resources owned by territorial communities of villages, settlements, towns, districts in cities, as well as objects of social property managed by district and regional councils (Article 142 of the Constitution). Regulations on local government finances are also contained in Art. 143, according to which the territorial collectivities of villages, settlements and towns, either directly or through the local self-government bodies created by them, manage the property that is communally owned; adopt programmes for socio-economic and cultural development and control their implementation, adopt the budgets of the respective administrative-territorial units and control their implementation; determine local taxes and collect them in accordance with the law; ensure the holding of local referendums and implement their results; create, reorganise and liquidate municipal enterprises, organisations, offices and control their activities; decide other matters of local importance falling within their competence under the law.

Summary

An analysis of the specific model regulations for European states, which the European Charter of Local Self-Government and the European Charter of Regional Self-Government can serve as, followed by an analysis of the constitutions of selected European states, leads to the conclusion that the EKSL is an important source of harmonisation of the

legislation of European Union member states within local government. However, as the article demonstrates, the EKSL is only of a general and intentional nature.

The European Union Member States regulate the issue of local government finances in their constitutional provisions in very different ways. The most numerous group of analysed constitutions consists of basic laws that refer to the legal and financial issues of local governments symbolically or completely omit this aspect (20 constitutions in total), followed by a group of constitutions that refer to the issue of local government finances in a general way (18 constitutions in total). In comparison, the rarest case are constitutional provisions that regulate the finances of local governments in a detailed way (4 constitutions).

However, it should be noted that the absence of constitutional provisions on local government finances does not indicate a lack of attention to such an important issue, but may indicate a deliberate action due to the chosen model of local government by a particular state.

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