

REVIEW ON PRESENTING AWARD FOR OUTSTANDING DOCTORATE ENTITLED “LEGAL AND FINANCIAL INSTRUMENTS OF THE PUBLIC DEBT REDUCTION IN POLAND” TO DR. EWA LOTKO

The essence of presented award

In 2018 the authorities of the Center for Information and Research Organisation in Public Finance and Tax Law of Central and Eastern Europe Countries, being an international scientific organisation, have decided to annually present prestigious scientific award for outstanding doctorate or monography in public finance and tax law written by researchers living in this part of Europe. According to the Founder, this award is to popularise publications and give them special importance in the European and global dimension. The first award is to be granted in 2018 for the works published (and in the case of doctorates – defended) in 2017.

After fulfilling preliminary conditions of the procedure provided by the regulation on presenting the award, doctorate written by dr Ewa Lotko, from the University of Bialystok, entitled “Legal and financial instruments of the public debt reduction in Poland” applies for the award. Such dissertation requires special internal review, prepared by an appointed member of the “Center” Commission for scientific awards for outstanding doctorate of monography in public finance and tax law from Central and Eastern Europe Countries. The author of the review was appointed by the Chair of the Commission, prof. dr hab. Krystyna Piotrowska-Marczak.

Substantive evaluation of the dissertation

At the beginning of this review, the title of the doctorate written by Ewa Lotko should be appreciated. The Author discussed a very current issue which has cognitive and practical significance, since both public debt as well as public sector deficit and budget balance are problems of fundamental meaning from the perspective of public finance stability mainly expressed by two ratios of acceptable level of deficit and public debt (3% GDP and 60 % GDP, respectively). The importance of the problem arises also from the fact that the results of the previous financial crisis forced not only Poland but also many other European countries to search for more effective solutions limiting deficit and public debt, especially in the period of favourable economic conditions. Recognising the significance of these problems, the Author made a successful attempt to analyse and evaluate the actions taken in this sphere, both in making and applying the law on domestic and EU level.

The aim of the analysis conducted in the dissertation is “to evaluate the effectiveness of instruments limiting public debt in Poland and to propose changes in this scope”. With the aim formulated in such a way is connected research hypothesis, according to which “legal and financial instrument binding in Poland go in the

direction of reducing public debt, however they are not capable to prevent excessive debt. Therefore, there is a need to a holistic approach to the problem of limiting debt, in particular by using indirect instruments connected with rationalising the organisation of tax authorities, planning budget revenues and expenses as well as limiting tax gap.” With the assumed research hypothesis are coherent four detailed hypotheses, which determine the need to conduct multi-faceted and complex research of the public finance law doctrine, normative acts and the most important institutions of domestic and the Union law.

The structure of the dissertation is subordinated to the material scope resulting from the title and assumed research concept. The structure of the aim, the research problem and assumed hypotheses allowed to distinguish two categories of instruments limiting public debt, i.e. such whose efficiency may be confirmed and such instruments which would be effective if they were properly implemented, perceived or enhanced by suitable legal rank. Therefore, the comprehensive analysis, which was conducted by the Author, allowed to highlight both positive as well as negative aspects of functioning of the legal and financial instruments reducing public debt.

At the same time, the Author paid attention to difficulties in defining public debt, its scope and causes of appearing. According to the Author, it is a consequence of a complex structure of public debt as well as of serious terminological chaos in the Polish language in the field of public finance, partly arising from coexistence of public finance sector, whose scope is determined by Polish provisions, and general government sector, defined by EU provisions, and then separate methods of calculating public sector deficit and debt (according to domestic methodology) and general government sector deficit and debt (according to EU methodology), and further from the lack of attention to precisely apply these terms in legal acts. The existing duality of methods used to calculate public debt additionally impedes comparing process of data and ratios significant from the perspective of public finance stability and efficiency of fiscal rules, which directly serve to limit public debt. Therefore, the Author proposes to stop applying domestic methodology and to fully implement in Poland ESA 2010 standards, including accrual basis of budgetary operations accounting, presenting many benefits of this

solution. According to the Author, the effectiveness of fiscal rules would be strengthened because their scope would cover public finance sector and general government sector as a whole; the constitutional limit of debt as well as prudential procedures would be started sooner than presently; duality of debt limits would be abolished; total and comparable evaluation of the condition of public finance in Poland in comparison to other European countries would be possible; provisions of the Act on public finance would be adjusted to constitutional provisions, whose intention is to protect the stability of public finance; deficit and public debt terminology would be simplified and unified. The stability of Polish finance would also be protected better, since it would be impossible to care for public finance only temporarily and seemingly by, e.g. manipulating the catalogue of units classified as public finance sector.

When analysing legal and financial instruments reducing public debt in the EU law, the Author did a broad review of legal and financial instruments applied in the EU to influence the level of debt and public deficit of the Member States. The main focus was put on the impact of the Union provisions on national legal regulations relating to public debt. A complete analysis of legal solutions was made on the basis of the Maastricht Treaty, the Lisbon Treaty and the Treaty on the Functioning of the European Union, “six pack” and “two pack”. Also the excessive debt procedure, multi-annual planning, budgetary frameworks, expenditure rules and fiscal councils were discussed and analysed critically. When evaluating the effectiveness of instruments applied in the EU law, the Author paid attention to low efficiency of the procedure for avoidance of excessive deficit because some of its stages are optional or even discretionary. Additional element indicating the insufficient effectiveness of this procedure is the fact that in the case of making decision by the EU Council to abrogate the procedure the deciding criterion is the deficit ratio of the general government sector and not the debt ratio of this sector. As a result, the criterion of debt under the Union provisions and consequently in practice is marginalised and thereby is not complied with. The Author makes a conclusion that the treaty provisions do not sufficiently protect the Member States from excessive debt and postulates to increase the pressure in the procedure for avoidance of excessive deficit on the criterion of debt of the general government sector.

EU regulations have significant impact on the amount of deficit and as a consequence public debt, but also national provisions play an important role and therefore the Author analysed in details legal and financial instruments limiting public debt in the public sector finance, assuming classifications of instruments which directly and indirectly serve to reduce public debt. From the perspective of instruments' effectiveness, the biggest significance has constitutional debt rule. Its supplement are statutory prudential and remedial procedures as well as stabilising expenditure rule. However, to make the stability of public finance possible, the Author postulates to supplement the provisions of the Constitution of the Republic of Poland with a regulation directly relating to the budget balance rule, owing to which caution in determining the amount of budget deficit could be exercised. It would be justified to give such a rule a flexible character by including in it cyclical changes in the economy or to include in the Constitution structural deficit of the public finance sector. An instrument directly limiting public debt is the stabilising expenditure rule, introduced to the Act on public finance, which assumes to limit the level of expenditure and allows to calculate legally binding absolute expenditure limit for a given budget year. The Author assessed the this rule positively, especially that its structure indicates high flexibility within adjusting to economic conditions in the subsequent stages of economic cycle and its countercyclical character as well as the possibility to annually limit public sector expenditure make it a more effective instrument reducing public debt than the remedial procedures, whose analysis pointed significant disadvantages causing decrease of their effectiveness. However, as the Author rightly points out, the stabilising expenditure rule is not without drawbacks, especially concerning the complexity of its structure and selection of fiscal indicators. Legal and financial instruments limiting public debt also include public debt management and multi-annual planning. However, the main disadvantage of both instruments, which the Author noticed, is the lack of responsibility for failure to meet the objectives provided in them. It results from unbinding character of the Public Debt Management Strategy as well as Multi-annual Financial Plan, and frequent/annual changes in both documents have an effect of leaving the aims and values assumed in them only in the sphere of political declarations, making them the instruments of little use. Similarly, the Author

thinks that instruments which were established to limit public debt in local government subsector cannot be recognised as sufficiently effective. It is supported by e.g. too complicated formula on the basis of which individual debt index is calculated as well as too detailed and unbinding character of multi-annual financial forecasts and thus the Author postulates further legislative works to replace planned budget income assumed to calculate individual debt index with income actually executed.

According to the Author, complementary to legal regulations established directly to reduce deficit and public debt should be indirect instruments, being additional (supporting), and which she rightly connects with income and expenditure side of the budget. The Author pays special attention to the necessity to improve the functioning of tax administration responsible for the collection of public law liabilities and to the feasibility of budget revenue planning. However, according to the Author, there are many causes of the difficulties in feasible revenue planning. As examples she points out: legal character of revenues, macro-economic factors (such as GDP, inflation, profitability of enterprises as well as the procedure for planning and allocating budget appropriations and limited possibilities to effectively manage public finance connected with it); the scale of tasks implemented from public funds and the impact of political factor on shaping both size and structure of budget on the revenue and expenditure side. The process of rational budget expenditure planning should be supported by properly implemented activity-based budget, which potentially may positively influence the condition of public debt, but according to the Author it is the progress (stagnation) of this process implementation in Poland on the central and local level that makes it impossible to use it for this aim.

For the purposes of comparison, the Author analysed legal solutions used in selected European countries (France, Germany, Hungary, the Czech Republic, the United Kingdom and Switzerland) in the scope of limiting public debt. As the most significant instruments the Author recognised fiscal rules, whose observance is supervised by independent institutions called fiscal councils and multi-annual planning. The conducted analysis also proves that responsibility developed in the society for the condition of the state's finance and participation of the citizens in making financial decisions by taking

part in financial referendums may be an instrument limiting public debt as effective as legal provisions.

To sum up this part, it should be stated that the Author indicated that there is a need to improve the efficiency of binding instruments and to seek new legal solutions in the scope of public debt reduction. She rightly notices that a holistic approach to the problem of limiting public debt is needed, which should include direct and indirect legal and financial instruments.

Other factor influencing the final evaluation

The final evaluation of the dissertation, besides its substantial content, was impacted by other factors, such as, among others:

- 1) During the procedure for conferring doctoral degree the reviewed doctorate obtained two official, very positive reviews by prof. zw. dr hab. Stanisław Owsiak from the Cracow University of Economics and by prof. zw. dr hab. Zbigniew Ofiarski from the University of Szczecin. Both reviewers found the work distinctive, deserving an award.
- 2) The Faculty of Law Council, University of Białystok in the resolution of 2 July 2018 supported the motion to present “the Center” scientific award for outstanding doctorate to dr. Ewa Lotko.

- 3) The substantial part of the reviewed work was published in the monography: E. Lotko, U.K. Zawadzka-Pąk, *Legal and financial instrument of the deficit and public debt reduction in Poland in comparison to European experiences*, Wydawnictwo Temida 2, Białystok 2018. First three chapters, corresponding to the content of the doctorate, are written by E. Lotko, and chapter 4 is written by U.K. Zawadzka-Pąk.

Conclusion

The reviewed doctorate deserves to be called outstanding due to its merits, discussed in point 2 of this review, as well as to other reasons presented in point 3. I hereby apply to present dr Ewa Lotko with a prestigious scientific award for outstanding doctorate, founded in 2018 by the Center for Information and Research Organisation in Public Finance and Tax Law of Central and Eastern Europe Countries, for doctoral dissertation entitled “*Legal and financial instruments of the public debt reduction in Poland*”.

Doc. dr Petr Mrkývka

Brno, 30 August 2018