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An Analysis of Local Taxation as an Expression of the Financial Autonomy of Local Authorities in the Spirit of the Constitution in Cameroon

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ABSTRACT

Local authorities in Cameroon have an enormous task of acting as engines of development by taking a lead on all actions classified as local interest. The decentralisation process comes along with a transfer of competences from the State to local authorities and in executing these, the constitution has provided that they be freely administered and enjoy financial autonomy. In all this, the question raised is that in the light of the constitution, do local authorities actually enjoy real financial autonomy in Cameroon? Irrespective of the provisions of the constitution of Cameroon, unequivocally specifying the free administration local authorities and which embodies financial autonomy, local authorities have so far experienced a very relative financial autonomy. This situation is explained by the fact that local authorities enjoy a very limited decision-making power with strict control mechanisms exerted upon them as well as the fact that they do not have sufficient resources nor do they have a proper say on the allocation of said resources to expenditures. Considering the role financial autonomy has to play in promoting good governance and the supply of essential public goods, harnessing it becomes very important.

Keywords: Financial autonomy, Local authority, Local taxation.

I. INTRODUCTION

A study on the financial autonomy of local authorities in Cameroon proves not to be an easy endeavour perhaps due to the fact that the starting point, which is its definition is not any easy. With the variance in opinion as to what the definition of the financial autonomy of local authorities is, its content rests on certain attributes. These are that the financial autonomy of local authorities comprises of their proper competence to decide and manage their revenue and expenditure, which are summed up in a budget and which is essential for the execution of competences devolved to them². The 2019 law on local authorities in its Book Five, fails to give

¹ Author is the Quality Assurance and Accreditation Coordinator at The ICT University, Cameroon.

² V. Dussart, (2000), L'autonomie financière des pouvoirs publics constitutionnels, Paris, Cnrs Editions, p. 12

definition to the term financial autonomy. To this effect, one has to turn to law No 2017/010 and law No 2017/011 to lay down the general rules and regulations governing public establishments and public corporations respectively. These laws qualify financial autonomy as “*the power of a corporate body to freely administer and manage its movable and immovable, tangible and intangible or liquid assets in the pursuit of its corporate purpose*”³.

An interrogation on the situation of local authorities in Cameroon in relation to this will immediately drive one to ponder on the realism of this principle. A brief look at the constitution⁴, complemented by relevant legal provisions⁵ without a doubt affirms the reality of this fact. However, exchange with local elected officials tells a different story

The financial autonomy of local authorities has a dual implication. Firstly, it grants local authorities a legal competence to create norms in terms of local finance and secondly, the ability of local authorities to finance their expenditures with their own sufficient and proper resources. This means a proper decision-making power in determining resources and expenditures. This further illustrates the prowess possessed by local authorities in economic action implying the existence of effective conditions for local authorities to exercise the ability of allocating revenue and expenditures. As such, it warrants local authorities master and possess a financial choice. By so saying, local authorities in the light of this principle have the proper competence in terms of local taxation, to create, levy and suspend various taxes, and in terms of expenditure, have the freedom to decide to allocate resources to a particular expenditure⁶.

The intention of the legislator however is that the financial autonomy of local authorities in Cameroon is as a result of the free administration enjoyed by them in the first place⁷. The principle of free administration in itself is the ability of local authorities to run and manage its affairs through local elected officials under the principles of subsidiarity and complementarity⁸.

³ Art.4 paragraph 2, law No 2017/010 of 12 July 2017, to lay down the general rules and regulations governing public establishments. A similar view is held by law No 2017/011 of 12 July 2017, to lay down the general rules and regulations governing public corporations in its Art.3, paragraph 4. It defines financial autonomy as the “*power granted to a legal person to free administer and manage its movable and immovable, tangible and intangible or liquid assets in the pursuit of its corporate purpose*”

⁴ Art. 55 (2) of law no 96/06 of 18th July 1996 to amend the constitution of 2nd June 1972.

⁵ Art. 8 and 11 of law no 2019/024 of 24 December 2019 bill to institute the general code on regional and local authorities (GCRLA)

⁶ The dual dimension implication of the principle of financial autonomy of local authorities is best explained by A. Roux, (2006), “L'autonomie financière des collectivités locales en Europe”, Rapport introductif, *Annuaire internationale de justice constitutionnelle*, p. 499

⁷ A reading of Book One, Part I of the general code on regional and local authorities illustrates this position. The law maker has titled this part to read “the free administration of local authorities”. In so doing, every disposition falling under this part should be presumed as forming part of and interpreting the free administration of decentralised authorities in Cameroon. NKWELLE-NGOME F.N., 2021, *Reflections on decentralization as a development tool in Cameroon: a legal perspective*, PhD Thesis [unpublished], FLPS, The University of Bamenda.

⁸ This is in line with the provisions of Art. 6 (1) and Art. 20 of the GCRLA

Free administration relates both to the administration and finance of the local authority. In terms of the finances of local authorities which is embedded in financial autonomy, free administration effectively means that local authorities have the legal competence to decide the nature, the structure as well as the level of their financial resources and equally the power to decide on how expenditures are allocated to these resources⁹. As such, financial autonomy appears as a cornerstone, specifically to the principle of the free administration of local authorities and generally, to decentralization itself. Perhaps an important question to ask is if free administration is intended to foster democracy and good governance or if it is meant to enhance the financial autonomy of local authorities. Jurisprudence supports the former than the latter¹⁰.

It is on this note that several countries across the globe who push for democratization have had this principle of free administration and financial autonomy of local authorities spelled out in either their constitutions and laws or both¹¹. Cameroon is not left out in this trend of legal behaviour.

The experience of Cameroon in local governance can be traced as far back as 1974 with law No 74/24 of 5 December 1974 Organising Councils. This law defined a council as “*a decentralised public authority having the status of a corporate body under public law*”¹² and it “*...shall have legal personality and financial autonomy*”¹³. Several years later, Cameroon underwent a constitutional reform which changed the form of the State from a unitary to a decentralized unitary State¹⁴. This constitution equally recognized regions and councils as the local authorities in Cameroon, freely administered and having administrative and financial autonomy¹⁵.

The year 2004 came with triple laws specific to the implementation of decentralization in Cameroon. There is law no 2004/017 on the orientation of decentralization, law no 2004/018 on the rules applicable to councils and law no 2004/019 on the rules applicable to regions. These

⁹ As explained by Loïc PHILIP, the principle implies that local authorities are endowed with effective or real attributes, for there can never be effective attributes without a minimum level of financial autonomy. L. Philip, ‘L’*autonomie financière des collectivités territoriales*’, Cahiers du conseil constitutionnel, n°12, <http://www.conseil-constitutionnel.fr>, last accessed 15/03/2025

¹⁰ For instance, the European Charter of Local Self-Governance, promotes the principle of local self-governance or free administration as a fundamental aspect of democracy.

¹¹ The European Charter of Local Self-Government (ECLSG), a treaty adopted by the Council of Europe in 1985 and in force since 1988, France through the constitutional revision of 26/03/2003, constitutionalized the financial autonomy of local authorities. Senegal, through law No 96/06 adopted a specific law on local authorities which recognized the financial autonomy of local authorities. In Ivory Coast, the law of 26 September 2003 on the financial regime and local taxation was adopted. In Gabon, there was equally the adoption of law relating to decentralization on June 6 1996, law No 15/96.

¹² Art.1 (1), law No 74/24 of 5 December 1974 Organising Councils

¹³ *Ibid*, S.1 (2)

¹⁴ Law No 96/06 of 18th July 1996 to amend the constitution of 2nd June 1972, Art. 1 (2).

¹⁵ *Ibid*, Art. 55 (1) and (2).

laws proved challenging in application and less than two decades after were abrogated following the adoption in 2019 of law no 2019/024 of 24 December 2019 bill to institute the general code on regional and local authorities. Art. 8 of this law takes the wordings of Art. 55 (2) of the constitution in describing the type of autonomy enjoyed by local authorities: “*They shall have administrative and financial autonomy in the management of regional and local interests*”. This undeniably means that the autonomy attributed to local authorities is for the purpose of management or administration of local affairs. Thus, for the purpose of local authorities to be freely administered or self-governed.

Over the years, there have been persistent calls from central administrative powers of the State for local authorities to become an essential component of development drive, not just in Cameroon but in many countries as well. Moreover, the 2019 law on local authorities in Cameroon describes decentralization (local authorities) as the basic driving force of development¹⁶. These calls to contribute to development efforts are made in circumstances where local authorities are yet to master their competences, do not enjoy the relevant legal competences of determining financial autonomy nor do they have the corresponding financial resources necessary for this.

Under these considerations, it is therefore important to question the real extent of the financial autonomy granted to local authorities. Beyond the power to act that the constitution attributes to them (legal autonomy), have they really acquired the means to act (financial autonomy)?

If anything can be drawn from Cameroon’s decentralization process in terms of financial autonomy of local authorities is that they enjoy limited form of financial autonomy (I) and that the limited autonomy is insufficient in executing devolved competences (II).

II. A LIMITED FINANCIAL AUTONOMY ENJOYED BY LOCAL AUTHORITIES

A complete reliance on the provisions of the constitution in S.55 on the regional and local authorities and the decentralised nature of the state and on the general code of regional and local authorities will reveal that local authorities in Cameroon are indeed endowed with veritable financial autonomy. An empirical study into the phenomenon does not tell the same story. The perception of local authorities on their financial autonomy casts a lot of doubts on the existence of a real financial autonomy for local authorities. The premise of financial autonomy has a bearing on its content and an implication when conferred upon a public body. Financial autonomy has an initial legal implication which is normative in nature, that is, the ability to

¹⁶ Art. 5 (2), GCRLA, stipulates that “*Decentralization [local authorities] shall constitute the basic driving force for promotion of development, democracy and good governance at the local level*”.

produces norms applicable to one's self. The financial autonomy of local authorities in Cameroon can be measured in terms of their ability in determining resources and expenditures as well as the nature of control exercised upon them in this process. It should however be noted the competence of local authorities allocating resources and expenditures is limited (A) and the financial control over them highly firm (B).

(A) Limitation of the financial autonomy of local authorities in the allocation of resources and expenditures

It is most appropriate in treating the budgetary competence of local authorities in the sphere of finance autonomy to make a demarcation between revenue allocations and determining the nature of expenditure.

1. The limited decision-making competence of local authorities in revenue allocation

The legal capacity of a local authority in finance matters is seen in its domain of generating revenue and determining taxes.

a) The competence of local authorities in determining tax revenue

the GCRLA states that *“The resources necessary for the exercise of the powers devolved to local authorities shall be allocated to them either by transfer of taxes or grants, or both”*¹⁷. These taxes are known as council tax¹⁸. This means that local authorities can effectively depend on council taxes for the financing of their activities. However, they do not enjoy the right taxation autonomy. In line with the principle of fiscal legality and consent to taxation, it is the sole competence of the legislator to impose taxes on citizens¹⁹. This is constitutionally provided for in Cameroon with the legislative having the competence for *“the creation of duties and taxes and the determination of their basis of assessment, rates and methods of collection”*²⁰.

The tax revenue of local authorities therefore come essentially from the sharing of taxes derived by the State, from the proceeds of local taxes whose regime is set by the legislator or from local taxes whose rates they can determine within the brackets set by law. In the first case, local authorities can share the proceeds of a national tax, without a local basis and without obviously having the possibility of setting the rate. In the second case, local authorities receive revenue from a tax levied on a local taxable matter, but without having the power to determine the rate. In a third case, local authorities may be authorised by law to set the rate of a tax levied on a

¹⁷ Art. 12. This provision carries the same wordings of art 22 of the 2004 law on orientation of decentralization.

¹⁸ In accordance with section 391 of the general code on local authorities, local taxes are those levied by State services or the relevant services of the local authority.

¹⁹ This is drawn from art. 14 of the French Declaration of the Rights of Man and the Citizen.

²⁰ Art 26 (2) (d) (3), Constitution of Cameroon.

local taxable matter within the taxable brackets prescribed by law. In practice however, this practice is very rare and the fiscal autonomy of local authorities therefore remains very limited. Therefore, while local authorities can set the rate and the basis of local taxes, they cannot, on the other hand, create a new taxation. The fiscal power of local authorities therefore appears to be clearly limited. This observation is reinforced taken into consideration the fact that the exercise of the power to set rates and the basis of assessment must be carried out under the conditions determined by the law, the latter setting precise limits on this freedom²¹. Art. 3 of the law on local taxation specifically states that a local authority cannot collect any tax or duty if it has not been created by law²².

This situation creates doubt on how well local authorities can be freely administered without the existence of financial autonomy. How can local authorities execute devolved competences without the ability of deciding the level of local taxation? The advantages to the local authority having competence and control over local taxation cannot be undermined. It has a propensity of creating a strong bond between the local authority and its inhabitants which is quite fundamental to the governance process. Equally from an economic perspective, the local authority can trace a link between taxes raised and the level of public service rendered. This makes them accountable to the people who are the tax payers and who make such payments directly to the local authority. In principle, this will foster an environment where there is a proper management of the local public service with integrity²³.

As such, for the effective free administration of local authorities, it is necessary for there to exist a minimum guarantee of the fiscal autonomy of local authorities. In this light and in some respects, local authorities enjoy a limited fiscal competence in determining the rates of council taxes²⁴. African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development states that “*central governments shall adopt legislation, measures and establish relevant mechanisms to give local governments the authority to mobilise and disburse resources at the local level for local economic development*”²⁵. To this effect, the Cameroonian legislator has prescribed council taxes; additional council taxes on State taxes and duties;

²¹ Art. 383, GCRLA.

²² Art. 3 (1), Law No 2009/019 of 15 December 2009 on local taxation.

²³ This process shifts accountability from the State to the local authority as the taxpayer will cease going to the State and rather to the local authority where he pays his taxes. G. Carrez, (2008), ‘L’*autonomie fiscale des collectivités locales*’, *Revue française de finances publiques*, n°103, p. 67

²⁴ Art. 9 (3) of the European Charter of Local Self-Government, 1985 prescribes that “*Part at least of the financial resources of local authorities shall derive from local taxes and charges of which, within the limits of statute, they have the power to determine the rate*”

²⁵ African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development, 2014, art. 7 (1).

council levies; regional taxes and duties; any other levy provided for by the law as falling within local taxes²⁶.

Council taxes are collected by the State on behalf of local authorities²⁷. They are derived from business licences; liquor licences; discharge tax; property tax on landed assets; gambling and entertainment levy; immovable property conveyance fee; automobile stamp duty; and forest royalty.

Local authorities have the ability of themselves collecting some taxes such as council duties as spelled out in law no 2009/019 and decree no 2002/2175/PM of 20th December 2002 fixing the tax rates and the modes of collection of certain indirect council taxes. This includes fees such as slaughterhouse taxes, cattle tax, impoundment fees, market fees, building permits, parking fees, Entertainment tax, advertising tax, as well as the highway dilapidation tax²⁸.

It is thus very evident that the decision-making power of local authorities as far as revenue born from taxes are concerned is very much controlled. Is this the same case with non-taxable revenue?

b) The power of local authorities in generating revenue from non-taxable operations

It is the exclusive domain of the legislator to create various taxes, be it national or local taxes²⁹ but has granted to local authorities the possibility to generate resources for the attainment of devolved competences. By so doing, sources of revenue of local authorities range from tax revenue, proceeds from the use of property and provision of services, allocations and subsidies from the State and cash and financing resources³⁰.

Specifically, the legislator has granted to local authorities the possibility of engaging with the business world as a means of generating revenue. They do this by acquiring shares or bonds of companies responsible for operating local services or receives royalties from such a company³¹. This essentially means that a local authority may engage in the securities market either as a shareholder or a bond holder. This initiative is not wide open and total as the law itself puts a limit as to the amount of shares a local authority can hold in a local public establishment or enterprise, and other entities, be it public, private or semi-public to 33%³².

²⁶ Art. 392, GCRLA

²⁷ Art. 7, law no 2009/019 on local taxation

²⁸ *Ibid*, art. 62

²⁹ S.26 (2), 1996 constitution, *op. cit.*

³⁰ Art. 390, GCRLA

³¹ *Ibid*, art.52 This is done following a resolution of the deliberative organ and approved by the supervisory authority.

³² Art.56, GCRLA

Another means of revenue creation for public establishments is the through the sale of property belonging to the local authority. Property of a local authority (public or private property) can either be movable or immovable, tangible or intangible, acquired free of charge or against a payment made by the local authority³³. Through the deliberations of the council, the management of these property is assured and should the council decide to sell them, proceeds from the sale shall be paid into the treasury of the local authority. Far from the sale of these property, the local authority raises funds from services they provide³⁴, notable through their property³⁵. Rents coming from council property cannot be neglected as a potential source of revenue. The local authority is equally recognised a means of raising funds through the sale of impounded animals and equipment which have not been claimed within the regulatory timeframe.

Local authorities, as a show of their financial autonomy, may accept gifts and legacies after the approval of the minister in charge of local authorities. This is the situation when such a gift or donation has an expenditure implication or is tied to a condition³⁶. Such gifts may include movables and immovable as well as tangible and intangible property. A local authority may equally go into partnerships with the State, public establishments and corporations, civil society organisations or even foreign partners for the execution of tasks transferred to them.

Local authorities equally have as a means of revenue, government grants and subsidies. The government has put in place a Common Decentralization Fund as a means of partially financing the decentralization process. This fund which is an annual disposition represents at least 15% of the State budget³⁷. This allocation by the State is reasoned on the fact that competence have

³³ *Ibid*, art.57

³⁴ This can be through the initiatives in economic action such as the organization of trade fairs and the organization of council tourist sites according art. 156 of GCRLA.

³⁵ *Ibid*, art. 393

³⁶ *Ibid*, art. 61 (1)

³⁷ This is the innovation brought about in the 2019 law on local authorities. Prior to its coming, the decentralization fund established in the 2004 law on the orientation of decentralization in its art.23 (1), subsection 2 of same section provided that the fraction of the State budget to be consecrated to the decentralization fund shall be determined each year, on the proposal of the government. This gave room for a lot of arbitrariness in the determination of this ultimate grants to councils. It also made the amount to be transferred uncertain. This saw a lot of disparity in allocations for the decentralization each year. Prime Ministerial Decree N° 2009/248 of 5th August 2009 on the modalities for the evaluation and distribution of the General decentralization fund spells out how this fund shall be allocated to local authorities. S.1 (2) of this decree provides that the aim of the fund is to partially finance the decentralization process and local authorities. In 2010 for instance, the total amount allocated for decentralization stood at 9 694 000 000 FCFA. In 2011, Prime Ministerial Decree N°2011/0976/PM on the allocation of the decentralization grants slated the amount dedicated for the decentralization at 7. 000. 000. 000 with 5 billion serving as the operating budget and 2 billion as the investment budget. Thus, a substantial drop of 2.694.000.000. as from the previous year. The fiscal years 2019 and 2020 saw a tremendous increase of what has been attributed to local authorities from the State budget. In 2019, this amount stood a 49. 800. 000. 000. Of this amount, 36. 000. 000. 000 was allocated as the investment budget and 13. 800. 000. 000 as the operating budget. The same amount and allocations were maintained for the 2020 financial year. Irrespective of the great increase, it is still nowhere close to what has been prescribed by the general code on regional and local authorities. If put into context, local

been transferred from the State to local authorities and this devolution means that local authorities will incur more cost to execute these tasks. As such, the allocation should be at least the equivalent expenditure incurred by the State in executing the transferred tasks during the financial year immediately preceding the date of devolution³⁸. The State may equally do special allocations to a local authority if the execution of a public mission is about to be jeopardized by a shortage in funds.

Local authorities in some novel way peculiar to Cameroon, have as a source of revenue, proceeds from the exploitation of natural resources found within their jurisdiction. Authentically, natural resources fall under the domain of State management for even in Federal States, federated States do not manage natural resources. This novelty is brought into the Cameroonian experience by the 2019 law on local authorities. This goes as far to recognising the local authority competent to carry out the exploitation of mineral resources which cannot be given out as concessions³⁹. As such, a local authority can on its own carry out an exploitation of these resources and where it is carried out by the State, it gets part of the proceeds and possible all⁴⁰.

Other means of generating revenue are specified by the legislator in s. 398 of the code on local authorities. These include apart from the above mentioned; trade-in of depreciation, medium and long-term loans, assistance funds, capital gains on the transfer of fixed assets, investment reserves, brought forward from return on investments, any resource from international decentralization corporation.

Irrespective of the sources of revenue of local authorities in Cameroon, their allocation to expenditure is equally highly controlled.

2. The limited decision-making competence of local authorities in expenditure allocation

The determination of expenditure is the competence deliberative organ of the local authority which instructs the executive organ to carry out expenses as instructed in the budget⁴¹. The budget normally has two parts to it; revenue and expenditure, with the revenue used to execute the expenditures⁴². Despite the fact that local authorities enjoy autonomy in the execution of their budgets, this autonomy exists at the level of adopting the budget. This is so because once

authorities ought to have been attributed a total of the 15% of the general State budget. Put in figures, this would give an amount totalling 742. 755. 000. 000 out of the 4. 951. 100.000. 000 of the State budget.

³⁸ *Ibid*, art. 27 (1) and (2)

³⁹ *Ibid*, art. 156

⁴⁰ *Ibid*, art. 11 (1), para 4

⁴¹ Art. 408(1), GCRLA

⁴² Art. 389 (1) and (2), GCRLA

the budget is voted, an allocation earmarked for a specific subject matter and expenditure may be used only in the execution of that identified expenditure and cannot be transferred to another expenditure⁴³. More to this, once the council did not, during its deliberations, provide for and authorise an expenditure in the budget, no such expenditure may be committed or ordered⁴⁴. As such, there are expenditures which are obligatory and others prohibited.

a) Limitation of autonomy through compulsory expenditures

perhaps the interpretation of the principle of financial autonomy of local authorities is that they have the liberty of determining what expenses are covered by their budgets. This is however far from the reality because their resources are destined for the execution of well determined expenditures. These are compulsory expenditures. In wordings of art. 403 GCRLA, compulsory expenditures are those imposed by law and necessary for the optimum functioning of the local authority.

These expenditures are expedient and the local authority is bound to make them before attempting other sorts of expenditure. Some of these expenditures include; the payment of salaries, social security contributions, taxes and duties, due debts, allowances and benefits, payments to local authority support bodies and other payments permitted under S.404(1) of the general code on local authorities. Any other expenditure which has not been listed as a compulsory expenditure automatically falls under optional expenditure. These expenditures are secondary to the compulsory expenditures. They may be momentarily suspended when the financial resources of the local authority are insufficient⁴⁵. As such compulsory expenditures are privileged over optional expenditures.

Another form of compulsory expenditure is manifested in the investment of the local authority. Investment expenditures are those which have an impact on the assets of the local authority and thus, build its capacity⁴⁶. The investment expenditure is used for the construction of facilities, buildings, infrastructure and the procurement of material in its domain of competence.

The investment expenditure is thus used for projects such as the construction and equipping of markets, parks, slaughterhouses, the construction of educational, cultural, tourism and sports facilities, the rehabilitation of divisional and regional roads, the creation of unclassified and municipal roads, and overall implementation of development operations. The investment

⁴³ Art. 378 (1). The situation can be otherwise with a transfer of an allocation from one program to another only after a decision from the local authority has been approved by the supervisory authority of such a transfer.

⁴⁴ Art. 380, GCRLA

⁴⁵ Art. 405, GCRLA

⁴⁶ Because they have an impact on the capacity of the local authority, it is permissible for them to be multi-annual, art.389(1), GCRLA

expenditure of local authorities cannot be more than 40% and 60% of the total budget of councils and regions respectively⁴⁷. Aside from these obligations, there are prohibitions in the expenditures of local authorities as well.

b) Limitation of autonomy through prohibited expenditures

Forbidden expenditures represent expenditures expressly prohibited by the legislator and which the local authority must desist from making. Should such expenditures be carried out by the local authority, their recovery will be charged on the authorising officer of the local authority, the mayor or the president of the regional council, as the case may be. These forbidden expenditures include; subsidies to political parties, to religious associations, to unidentified, unapproved or undeclared associations and loans to private persons.

The temptation and risk are always so high for local authorities to make unnecessary expenditures on subjects who are totally unrelated to their devolved competences. This is why there is a control of their accounts though this control is rare because the supervisory authority will always intervene to stop such payments.

(B) Limitation of financial autonomy through the exertion of control over local authorities by the central administration of the State

Control over the finances of local authorities flows naturally with decentralization. The degree of control should however not be of a nature which should greatly hinder the free administration of the local authority. Be it administrative or judicial, the control should not be excessive.

1. Administrative control over the finances of local authorities

Administrative control is a form of control exercised by an agent of the State on the finances of a local authority. It entails the presence of the State, through its representative, to control the legality of decisions taken by local authorities. Bearing in mind the principles of oneness and indivisibility of the State⁴⁸, it can be said that the control over local authorities is constitutionally prescribed. This is because free administration is not free governance. So, State control over local authorities ensures that there does not exist a State within a States⁴⁹. Cameroon's system of control over the acts of local authorities for a long time did not change as instituted by the 1977 decree⁵⁰. Up to 2004, the form of control was an administrative *a priori*⁵¹. To this effect,

⁴⁷ Art. 417 (1) and (2), GCRLA.

⁴⁸ Art. 1 (2), Cameroon constitution

⁴⁹ NKWELLE-NGOME F.N., 2021, *Reflections on decentralization as a development tool in Cameroon: a legal perspective*, PhD Thesis [unpublished], FLPS, The University of Bamenda, p.299

⁵⁰ Decree No 77/91 of 25 March 1977 to determine supervisory powers upon councils, council syndicates and council establishments as modified by decree No 90/1464 of 09 November 1990.

⁵¹ C. N. MBACK, 2003, *Démocratisation et décentralisation: Genèse et dynamiques comparées des processus de*

art. 55 (3) GCRLA provides that *“the State shall exercise supervisory powers over regional and local authorities, under conditions laid down by law”*. Specifically, art. 481 (1) GCRLA states that the execution of the budget of local authorities is subject to judicial control, administrative control, control by the deliberative organ and audits.

Administrative control is exercised at two levels; during adoption of the budget and during its execution. During the adoption level of the budget, the law is categorical on the point that both initial and amending budgets must be submitted to the representative of the State for prior approval⁵². Upon reception of the proposed budget, the representative of the State ensures that the respect of budgetary principles such as annuity, unicity, and balanced budgeting have been respected. Where this is not the case, the representative of the State will amend the budget as of right if he calls for adjustments remain unheeded⁵³. Such amendments by the representative of the State may not increase or include new expenditures except they are compulsory in nature⁵⁴.

During the execution of the budget, the control exercised by the public treasury through an accounting officer attached to the local authority. The accounting officers of regions and councils are appointed by joint order of the minister of finance and the minister in charge of local authorities⁵⁵. Their role is to verify and ensure that the acts of the authorizing officer of the local authority are in conformity with budgetary principles as defined by the finance laws.

Administrative control of the finances of the local authorities is equally assured by the Supreme State Audit⁵⁶. The Supreme State Audit retains this mission on a dual basis. Firstly, the GCRLA in art. 483 (1) emphasizes administrative control to consist of *“the control exercised by the State control institutions and bodies, and, financial and accounting control as defined by the financial regime of the State and other public entities”*. Secondly, the presidential decree organizing the Supreme State Audit gives it the mandate to conduct *“the highest-level verification of public services, public institutions, decentralised local authorities and their institutions, public and para-public enterprises, administrative and judicial liquidations”*⁵⁷.

décentralisation en Afrique subsaharienne, Karthala Paris et PDM Cotonou, p. 425.

⁵² Art. 76 (1), GCRLA

⁵³ Art. 427 (1), GCRLA. The situations where the representative of the State may amend the budget of the local authority as of right are; *where the budget voted is not balanced, appropriations allocated to cover compulsory expenditures are insufficient, expenditure is forbidden as per provisions of ...law, and where the ratios of investments (not more than 40% of the budget), operating expenditures (not more than 60% of the budget) and staff cost (not more than 35% of the operating cost) are not observed.*

⁵⁴ Art. 427 (2), GCRLA.

⁵⁵ Art. 439 (1), GCRLA.

⁵⁶ The Supreme State Audit is an administrative structure under the direct authority of the President of the Republic, for whom they are instructed and to whom they report. It is regulated by presidential decree No. 2013/287 of September 4, 2013 organising the services of the Supreme State Control

⁵⁷ Art. 2 (1) (a), decree No. 2013/287 of September 4, 2013 organising the services of the Supreme State Control

2. Judicial review of the finances of local authorities

Judicial control over the finances of local authorities goes in line with the provisions of art. 482 of the GCRLA⁵⁸. This means judicial control is exercised both by the Lower Audit Courts and the Audit Bench of the Supreme Court. Judicial control is basically *a posteriori*.

The lower audit courts otherwise known as Regional Audit Courts are located in the chief town of each region⁵⁹. Composed of judges, regional audit courts have jurisdiction to control and adjudicate upon public accounts and the accounts of regional and local authorities and public establishments within their jurisdiction⁶⁰. Control by regional audit courts is exercised as an *a posteriori* control and in writing whereby, final accounts of local authorities are to be forwarded to the court within three months following the closure of the financial year⁶¹.

The accounts are controlled by a judicial officer who acts as a rapporteur. Verifications of the account is done through the examination of the accounts and supporting documents to which any further justificative documents may be requested from the accountant. At the end of the verification, the rapporteur has two observations to make: the nature of the accounts, and, reconciling the nature and volume of income and expenditure against authorizations in the management accounts and the budget and equally verifying the compliance account transactions with the laws and regulations in force⁶².

The rapporteur forwards his observations to the section president of the court who shall in return shall make a reasoned proposal on each observation and attach a supplementary or counter report to them and forward to the legal department for action⁶³. Based on these submissions, the regional audit court sitting as a trial bench may an interlocutory or final judgement depending on how satisfied they are with the nature, respectively calling the accountant to furnish further justifications or certifying the accounts⁶⁴.

With respect to the control exercised by the Audit Bench of the Supreme Court, it controls and judges accounts or documents in place of public accountants who are patent or de facto of the state and its public institutions, decentralised local authorities and their public institutions

⁵⁸ This article provides that “*the judicial control of accounts of local authorities shall be conducted by the audit bench in accordance with laws and regulations in force*”.

⁵⁹ Art. 2 (2), law no 2006/017 of 29 December 2006 to lay down the organization, duties and functioning of lower audit courts.

⁶⁰ *Ibid*, art. 9 (1).

⁶¹ *Ibid*, art. 17 (2).

⁶² *Ibid*, art. 17 (5).

⁶³ *Ibid*, art. 19 (1) and (2)

⁶⁴ *Ibid*, art 20 – 27.

amongst others⁶⁵.

These preceding pages demonstrate that in the configuration of the law, local authorities in Cameroon enjoy quite limited financial autonomy manifested in the limited nature of the decision-making powers in terms of local taxation, budgeting and the allocation of revenues to expenditures. As earlier mentioned, financial autonomy is not limited solely to decision-making in revenue generation and expenditure allocation but equally the possession of sufficient resources to execute devolved competences. Just as its formal autonomy, local authorities in Cameroon enjoy a limited real financial autonomy.

III. INSUFFICIENT REAL FINANCIAL RESOURCES OF LOCAL AUTHORITIES IN CAMEROON

Real financial resources or real financial autonomy at this point does not refer to the legal capacity of local authorities in decision-making. It is rather reference to having enough financial resources and having knowledge on the management of these resources. It can be defined as the financial independence enjoyed by local authorities in relation to State subventions⁶⁶. Real financial resources become even more important for local authorities because it is with these resources that they execute devolved competences. Moreover, what is the usefulness of their decision-making ability in terms of revenue and expenditure when they have no resources in executing the expenditures identified? Thus, financial autonomy is made most visible in the resources possessed by a local authority. This means that when a local authority can boast of sufficient funds, sufficient and qualified personnel as well as sufficient assets, then can it be said that a local authority in deed enjoys financial autonomy. Without this, there is no financial autonomy⁶⁷. It becomes important to examine the nature of the resources of local authorities and these are sufficient in executing their missions.

(A) The Insufficient nature of resources of local authorities

The truth of the matter is that local authorities and decentralization must cease to be viewed as a mere technique of administering the state to engines of development with veritable financial power to influence local development. Local authorities must be financially buoyant and potent enough with sufficient resources to play this vital role if Cameroon must meet her development

⁶⁵ Art. 2 (1), law No 2003/005 of April 21, 2003 fixing the responsibilities, organization and operation of the Audit Bench of the Supreme Court.

⁶⁶ F. Labie, 2004, ‘Finances locales et autonomie financière’, in *Décentralisation, Etat et territoire*, Cahiers français n°318, Paris, La documentation française, p. 80

⁶⁷ NKWELLE-NGOME F.N., 2021, *Reflections on decentralization as a development tool in Cameroon: a legal perspective*, PhD Thesis [unpublished], FLPS, The University of Bamenda, p. 103.

objectives of emergence. They have to get the point of auto financing because the status quo is not diversified enough neither is it sufficient.

1. Limited diversification in the resources of local authorities

As affirmed by the Council of Europe, the fiscal power of local authorities is continuously affirmed as part of the attributes of the autonomy or self-government of local authorities⁶⁸. The implication of the financial autonomy of local authorities should go beyond legal provisions as an attribute of their free administration. This entails the possibility of local authorities actually levying some taxes, setting the rates and actually collecting these. However, the existence of these conditions does not sincerely reflect a real financial autonomy of local authorities.

This is because this power is not in itself indicative of the extent of the resulting financial power. In actual fact, the tendency has been an erosion of the financial autonomy of local authorities in order to render them beneficiaries of yielded national and local taxes and equally beneficiaries of State grants. This renders local authorities weak and incapable of depending on local taxes as principal sources of financing local actions, projects and programs. The expectation is that with the existence of local taxation power, this would be the principal source of local financing. But the reality in Cameroon is quite the contrary especially for some local authorities.

This requires a diversified source of resources. The propensity of local authorities depending on local tax revenue to finance local projects and programs depends on the economic vitality of economy of the local authority. The economic situation of some local authorities actually makes it a near impossibility to raise some significant funds whatsoever, to carry out any meaningful actions within the local authority. And this is where the State steps in as a messiah to the rescue of such local authorities in the forms of grants and special allocations⁶⁹. This is evident in some local authorities as there is an almost total reliance on the general decentralization fund as their principal source of funding. This is common with councils in grave economic difficulties such as Kiki and Konyambeta in the Mbam and Inoubou division of the centre region which can barely boast of weekly functional market or any form of economic activities within the local authority⁷⁰. As such, even though they are accorded the local taxation power to levy local taxes, fix their rates and collect some of these taxes, the existence of a vibrant local economy predetermines the possibility of the local authority benefiting from this local fiscal power.

⁶⁸ Council of Europe, 2007, *Local Authority Competences in Europe*, p. 22

⁶⁹ Art.26 (3), GCRLA.

⁷⁰ *Op. cit.* NKWELLE-NGOME F.N, p. 203

What does this mean principally? Local taxes are not the sole determinant of local authorities having resources of their own. This may work well for some located in cities considered as economic hubs but will not work for most especially those in rural areas.

The resources of local authorities as discussed are not diversified enough, basically emanating from few sources. Are the available resources sufficient in covering their expenditures?

2. Inadequate self-generated resources of local authorities

Perhaps what is needed by local authorities in Cameroon is not the decision-making power but the significant volume of resources which will enable them carry out their mandate effectively. If the resources are adequate to what is expected of them, then their functionality can be assured. True as this may sound, it is faulty and puts in danger the free administration of local authorities if they cannot boast of resources of their own properly generated by them. The quantity, quality as well as the sources of resources helps in better assessing the financial autonomy of local authorities. Should a greater part of their resources come from State subventions and which may always come under tight conditions and instructions, then this will significantly limit their free administration.

What does this mean in whole? It means that a greater share of the budget of local authorities must be raised by them. This why it is termed proper resources. Aside from the State subventions, the local authority should be capable of auto financing its activities⁷¹. Their proper resources must be of a nature that with or without State subventions and grants, they should function unbothered.

Prior to the adoption of the General Code of Regional and Local Authorities, the general decentralization grant barely attained fifty billion FCFA⁷². The 2019 law brought a significant change in the decentralization. It provides that each year, the financial law shall determine the fraction of State revenue allocated to the Common Decentralisation Fund. This shall not be less than 15% of State revenue⁷³.

⁷¹ Art. 9, The European Charter of Local Self-Government. This article provides that local authorities, within the national economic policies, possess the right of having their proper resources which they can freely manage in the exercise of their competences. At least part of these resources must come from activities and taxes which they can fix that base within the limits of the law.

⁷² In 2010 for instance, the total amount allocated for decentralization stood at 9 694 000 000 FCFA. In 2011, Prime Ministerial Decree N°2011/0976/PM on the allocation of the decentralization grants slated the amount dedicated for the decentralization at 7. 000. 000. 000 with 5 billion serving as the operating budget and 2 billion as the investment budget. Thus, a substantial drop of 2.694.000.000. as from the previous year. The fiscal years 2019 and 2020 saw a tremendous increase of what has been attributed to local authorities from the State budget. In 2019, this amount stood a 49. 800. 000. 000. Of this amount, 36. 000. 000. 000 was allocated as the investment budget and 13. 800. 000. 000 as the operating budget. The same amount and allocations were maintained for the 2020 financial year.

⁷³ Art. 25 (2) and (3), GCRLA.

With Cameroon's budget currently well over seven thousand billion, this leaves the common decentralisation fund with and allocation of over one thousand and fifty billion FCFA. Supposing the general operating allocations are deducted from this and the rest sent to local authorities as subventions, on an average, each local authority will receive a neighbourhood of three billion FCFA.

Should this hypothesis stand true, it is important to question how many local authorities in Cameroon are capable of raising on their own three billion FCFA? If they cannot, then it is evident that their proper resources are inadequate. The ideal situation is that State subventions should not make up a greater proportion of their global budget. This goes to show how much local authorities contribute to the national GDP and act as engines of development.

This calls for local authorities to step into the shoes of being a principal economic actor within its jurisdiction in order to generate resources needed to promote development or at least, putting in place conditions necessary for other actors to generate such resources. The local authority must step out of the shadows as a regulator, into the limelight as an economic actor, taking initiatives and investing more in some profitable economic activities. For instance, the local authority will have to get engaged in the exploitation of some natural resources such as forestry and artisanal mining. A good number of local authorities in this vein have gotten involved in economic activities such as agriculture. A typical example is the Bokito council which has invested heavily in agriculture and the exploitation of sand and wood⁷⁴. The Nkwen council in the Mezam division, North-West region is a local authority which has greatly diversified its sources of revenue. One of such avenues is investment in the agricultural sector, in the treatment of water, artisanal mining in the quarry sector, support agro-pastoral, fishery and handicraft production⁷⁵ and it notably has put in place plans of constructing low-cost houses as means of ploughing back capital and being self-sufficient.

For local authorities, mobilising resources for self-sufficiency is as important as mastering and understanding the competences and tasks which have been devolved to them.

(B) The missions devolved to local authorities

Good governance warrants that there be efficiency and effectiveness in the execution of the missions of the public service be it at the national or local level. To do this, local authorities must understand and master what is required of them. This entails proper allocation of resources

⁷⁴ *Ibid*, p. 135

⁷⁵ This is done through the procurement of a pelleting machine for the production of fish feed at the Menda Station plant. This forms part of the 5 Year development Programming for the Bamenda III Council.

so that they tend to be counter or unproductive and also that the devolution of tasks is met by corresponding devolution of resources to accomplish the tasks. Is this however the case in Cameroon?

1. The inflexible nature of the budgetary missions of local authorities

The law gives local authorities the latitude of freely adopting their budgets. This is done through very strict parameters which they cannot escape from. The institution of operating and compulsory expenditures stands as inescapable requirements.

In this light, the law makes it a compulsory 60% of the budget of local authorities to be dedicated to operating expenditures. Operating expenditures are both compulsory and optional and comprise items such as salaries and wages, allowances and other benefits provided for by the instruments in force, social security contributions, taxes and duties to be paid, irreducible expenses linked to the functioning of services, Debts due, contributions to local authority support bodies provided for by the laws and regulations in force, expenses resulting from the enforcement of final court judgements, contributions to groups or associations in which the local authority is member, upkeep of-roads, public lightning, health facilities, schools among others.

Of the 60% operating expenditures, staff cost, that is, salaries, wages and allowances to workers of the local authority, can take up to 35% and 30% for councils and regions respectively⁷⁶. This means that in general, the staff cost can take up to 21% of the general budget of a local authority. The general decentralisation grant for 2019 had a general allocation of 49.8 billion FCFA. Of this amount, the general operating allocation was 13.8 billion FCFA of which over 6.1 billion FCFA was earmarked for salaries, wages and allowances⁷⁷ representing more than 44% of the operating allocation.

Compulsory expenditures only go further in demonstrating emptiness of the financial autonomy of local authorities. Compulsory expenditures cannot be suspended by the local authority on any pretext and in most cases, makes up close 80% of the operating expenditures. If the compulsory expenditures of local authorities exceed three quarter of their total expenditure, then obviously their financial autonomy is gravely compromised.

2. The mismatch between transferred competences and resources

The law is quite explicit on this subject matter, “*the devolution of powers to a local authority*

⁷⁶ Art. 417, GCRLA

⁷⁷ Art. 4, decree no 2019/0829/PM of 22 February 2019 to set the allocation of the general decentralization grant for the 2019 fiscal year

*shall be accompanied by the transfer, by the State to the local authority, of the resources and means necessary for the effective exercise of such powers*⁷⁸. The transfer of competences is thus conditioned by the transfer of the means need to execute the competence. Without a transfer of the means, decentralization cannot be effective because it will entail the local authority taking up competences for which it has no means of assuring their execution.

This is why the GCRLA goes further in stating that for every local authority, the financial expenses arising from the evolution of powers shall entail an allocation by the State of resources of an amount at least equivalent to the said expenses. To measure the amount such expenditures are bear on the local authority, the State shall allocate resources which are equivalent to expenditure incurred by the State in executing the competence during the financial year immediately preceding the date of devolution of power⁷⁹.

In practice however, a transfer of competences has not always been met with a corresponding transfer of financial resources. When the transfer of resources does arrive, it is usually not adequate and more so, it usually comes late. This puts local authorities in delicate positions where assuring their mandate becomes really difficult.

Perhaps one of the resources local authorities are in short of most is human resource. Human capital stands at the centre of local authorities mastering their competences and tasks. The law provides for local authorities to freely recruit and manage a staff needed for the purpose of their mandate. This is improved upon through the provision of a local public service managed by local authorities⁸⁰. Aside from this, local authorities can seek the assistance of State personnel either on a temporal or permanent basis⁸¹. The State however retains the right of appointing some personnel of the local authority notably the Secretary General and Account Officer. The rest of its personnel are recruited by the local authority. This brings an extra burden of training these personnel to master the tasks of the local authority.

IV. CONCLUSION

After these points of reflections, the principal point which stands out is that irrespective of the fact that there is a constitutional consecration of the financial autonomy of local authorities in Cameroon, local authorities effective enjoy only a relative or limited financial autonomy. In reality, local authorities in Cameroon have limited decision-making power in budget allocation,

⁷⁸ Art. 21, GCRLA

⁷⁹ Art. 27 (1) and (2), GCRLA

⁸⁰ Art. 22 (3), GCRLA. The local public service is yet to be instituted by a decree of the President of the Republic.

⁸¹ Permanently, art. 22 (2) provides for local authorities to seek State personnel to be transferred or placed on secondment at the local authority, of course, upon the request of the local authority. Temporary, it is in line with art. 84 (1) GCRLA whereby the State and its agencies offer advice and support to local authorities.

high level control continues to be exercised over their acts, and they lack sufficient resources and mastery of their tasks. In all this, decentralisation and financial autonomy is aimed at achieving a better delivery of public services and promote good governance. It is therefore important the financial autonomy of local authorities in Cameroon be harnessed and deepened from two angles.

The first perspective is from their decision-making in finance, that is, possessing fiscal power. Yes, it is a parliamentary prerogative as far as taxation is concerned, be it national or local. For financial autonomy of local authorities to be real, it is important that local authorities be capable of setting tax rates and collecting all taxes falling under the category of local taxes. They should do these within the confines provided for by law.

The second perspective is granting to local authorities, real powers in terms of resource mobilisation. This will comprise fiscal and human resources and help stop the dependence on the State treasury for the execution of the missions of local authorities. Once this done, greater collaboration between services of the State and local authorities is called for and the State must focus on advice and support towards local authorities rather than supervision and control. For local authorities to effectively execute tasks expected of them, it is necessary that compensatory allocations which come with the transfer of competences be sufficient and timely.

Bringing the constitutionally consecrated principle of the free administration of local authorities and its analogous principle of financial autonomy to reality warrants a real political willingness to see the State and its local co-exist harmoniously for the fulfilment of general interest.

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