

## Summary

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### ABSTRACT

The chapter aims to summarise the main findings of the previous chapters from two viewpoints. First, it analyses the financial constitutionality in Central European countries, namely Hungary, Croatia, the Czech Republic and Slovakia, Poland, Romania, Serbia, and Slovenia. It can be concluded that in all countries legislation at the top of the hierarchy of legal sources regulates these issues. In Hungary we find the most important provisions on finance in the Fundamental Law; in the other countries in their constitutions. The Hungarian Fundamental Law regulates the issue in a separate section. The constitutions of the other countries include rules on the public finance system, however, in different depths.

The second part of the chapter deals with budgetary rules in the examined countries. The act on the budget is one of the most important legal sources in each country, because financing is essential to the functioning of the state. The state's revenues and expenditures are laid down by the budget in every country.

### KEYWORDS

Comparison, Constitution, Fundamental Law, budgetary rules, budget, national parliaments.

## 1. Introduction

The chapter is a summary of the volume's country reports. In the chapter, we use some parts of the chapters written by the respective authors, so footnotes are not used. We would like to thank the authors for their contributions: Tereza Rogić Lugarić and Irena Klemenčić (Croatia); Gábor Hulkó and Michal Radvan (the Czech Republic); Zoltán Nagy (Hungary); Mariusz Charkiewicz and Mariusz Popławski (Poland); Ion Brad (Romania); Goran Milošević (Serbia); Miroslav Štrkolec (Slovakia); Rado Bohinc (Slovenia).

The first part deals with the constitutional part of financial law of the examined countries. The second part examines the budgetary rules of the countries. We close our chapter with summarising thoughts.

## 2. Financial constitutionality in Central European countries

### *2.1. Constitutional law of public finances in Hungary*

The constitutional foundations of financial law are not a new field in jurisprudence, the level of regulation differs from era to era. The new Fundamental Law of 2011 opened a new path in the Hungarian regulation by the extension of the constitutional rules related to financial law.

The constitutional regulation of public finances, the constitution of public finances form part of a larger economic constitution. The economic constitution is part of the constitutional regulation where the fundamental economic rights and principles, the provisions regarding market economy, economic provisions on the tasks and powers of certain public bodies, and restrictions of these can be found. The constitution of public finances is located within the economic constitution, interpreted in a broad sense, which primarily concern monetary and fiscal policy. The literature also highlights that state power and public finances cannot be interpreted without each other, public finances are the conditions and the measures of state power, therefore, provisions regarding this matter require constitutional regulation. The constitutions provide rules on which financial relationships must be regulated by law, thus norms that oblige the legislature to enact public finance laws can be found in the constitutions. However, these norms have changed throughout history and nowadays they set out not only legislative matters but they expanded into chapters about public finances that prescribe detailed rules. This process took place also in the Hungarian constitutional regulation, and the current Fundamental Law encompasses detailed financial rules, so today's constitutional rules of public finances can be called the constitutional law of public finances. Provisions regarding public finances determine the legal institutions of public finances and the essential rules of money and asset management and public charges. The constitutional regulation, however, is not exhaustive, the detailed constitutional rules are set out in cardinal laws which require two-thirds of the votes in the parliament. Consequently, the Hungarian constitutional law of public finances is two-tiered, as cardinal laws also provide fundamental constitutional rules concerning public finances. There are several laws of such kind (act on the Hungarian National Bank, act on the State Audit Office, etc.) but the Stability Act is particularly important as a comprehensive regulation of several legislative areas.

The regulatory method of public funds of the Fundamental Law is twofold: on one hand, it sets out principles, on the other hand, it provides concrete cases. It sets out norms that are related to budget management, by creating the principle of a balanced, transparent, and sustainable budget management. In connection with budget management, to reduce state debt, the Fundamental Law provides prohibitive standards.

If the constitutional rules of financial law are examined structurally, a significant part of the rules could be found in a separate chapter on public funds. Nevertheless, some rules on public funds are set out in different chapters as well.

The chapter on public funds includes: legislative obligation on the central budget and its implementation; authorization of the government on annual budget management, the principles of budget management; determination of the optimal (50% of the GPD) government debt ratio and related budget management; budget management during a special legal order; limitation of the powers of the Constitutional Court; rules on the property of the State and of local governments as national assets; the notion of public funds and the principles on managing public funds; the Hungarian National Bank; the State Audit Office; the Fiscal Council.

Besides the chapter on public funds, several other rules on public funds could be found in the Fundamental Law. In the chapter 'Foundation,' which contains the theoretical and basic provisions of the law, the principle of a balanced, transparent, sustainable budget, the declaration of the forint as the official currency, the obligation to preserve public and national property are set out. The obligation to bear the public burden and detailed rules on asset management could be found in a different chapter in the Fundamental Law. Regarding public burdens, the legislator states that everyone is responsible for him- or herself and is obliged to contribute to the performance of state and community tasks according to his or her abilities and possibilities. It further points out that natural resources and cultural values form the common heritage of the nation, and it is the obligation of the state and everyone to protect and maintain them.

In the chapter 'Freedom and Responsibility' where fundamental rights and obligations, public liability, social security, the pension system, and the principle of the finances of the healthcare system are set out.

A section on public funds has been added to the chapter 'The State', in which several financial law institutions are defined in line with the above. In addition, this chapter contains several provisions about finances. Such provisions are about the budgetary powers of the NA, the powers of the President of the Republic related to the budget, a ban on holding national referendum on certain financial matters and the principles of the economy of local governments.

To sum up the constitutional law of public funds, the Fundamental Law regulates the followings: public funds and asset management, government debt; public charges; money and monetary system.

The main organ for the protection of the Fundamental Law is the Constitutional Court. It examines the consistency of the jurisprudence of the courts with the Fundamental Law and international law. It has a right to the annulment of laws, court decisions that are contrary to the Fundamental Law or international law. However, the power of the Constitutional Court is limited in financial matters, which can be regarded as a special limitation of the powers with certain exceptions. The limitation of powers is related to the rules on government debt. If the government debt exceeds half of the gross domestic product, the Constitutional Court cannot annule laws on the central budget and its implementation, on central and local taxes, charges and customs, nor the provisions of these laws, according to the general rule. An exception to this rule is when the Constitutional Court overrides these laws in relation with the

right to life and human dignity, the right to personal data, the right to freedom of conscience, religion and thought or the right to the Hungarian citizenship. The case when procedural requirements of legislation and the publication of these laws are not met; then the Constitutional Court has right to annule without limitations.

## **2.2. Croatian financial regulation**

The Croatian financial law is very broad and complex branch of law. The highest legal source is the constitution, but the relevant financial provisions are rather scattered throughout the document. When it comes to the financial law, the constitution offers basic principles (as in the case of the principle of equality) or guarantees (as in the case of social security).

When it comes to the state budget, the constitution is not very voluminous. The main article is Article 91(2), proclaiming the legal nature of the state budget—it is an organic law, as it must always be approved by a majority of all representatives of the Croatian Parliament (*Sabor*). It is *sui generis* law—‘law in numbers’. It also declares that the state’s revenues and expenditures are laid down by the budget. The last part of the Article 91 tackles sound financial management—if the implementation of the particular law needs additional financial means, its sources should be provided. However, the exact meaning of the provision is not quite clear, especially in terms of its further development in the relevant laws. Among the constitutional bases of budgetary law, we must also mention Article 54, inaugurating the State Audit Office as the highest audit institution, especially emphasising its independency and autonomy. This feature is underlined with provision regulating the accountability—the State Audit Office is governed by the main state auditor whose obligation is to regularly report to Croatian Parliament.

As to the budget of local and regional self-government, the constitution is almost silent. It could be concluded that the constitutional foundation in question could be best described as indirect and expressed through the financial autonomy concept. The starting point of financial autonomy of sub-national units is the citizens’ right to local and regional self-government (Article 128). Financial autonomy itself is referred to in Article 131. It emphasizes the right of subnational units on its own revenues over whom they freely dispose. The revenues should be proportionate to the competencies transferred and prescribed by the relevant laws (i.e., to the expenditures). Finally, there is an obligation of the central state to support financially weaker local and regional units.

## **2.3. Financial constitutionality in the Czech Republic**

To deal with the financial constitutionality in the Czech Republic, it is necessary to consider the Constitution of the Czech Republic and the Charter of Fundamental Rights and Freedoms, which is part of the Czech Constitution *sensu lato* (the Constitutional Order), together with the constitution *sensu stricto*. Public finances are not regulated in the Czech Constitutional Order in detail; there is no specific part concerning public finances as the division of powers seems to be the criteria for the

structure of the constitution. However, there are specific parts of the constitution for the Czech National Bank and the Supreme Audit Office. That is why we may talk about the control power and the bank power as the fourth and the fifth power in the state. The bank power could then be easily transferred to the financial power, with the other financial institutes mentioned in the constitution.

The current constitutional regulation is limited only to several financial institutes. The first area is the budget law: the constitution states that the state budget is the act. The government has a monopoly to submit the draft of the state budget and the draft of the final state account. The Chamber of Deputies of the Parliament of the Czech Republic has a monopoly on discussing these proposals; there are no rights for the Senate in this field. The management of state property and the implementation of the state budget is controlled by the Supreme Audit Office. The constitution guarantees the budget autonomy of local self-government units. However, fiscal federalism is not guaranteed at the constitutional level.

The tax law's constitutional regulation is limited to one sentence in the Charter of Fundamental Rights and Freedoms stating that taxes and fees can be imposed only by acts. It means not only taxes but also all the fees (charges) and other taxes *sensu lato* must be imposed by acts, not just by municipal generally binding ordinances, governmental decrees, or ordinances issued by ministries. The interesting fact is that this principle is set in the article dealing with the protection of ownership rights, and taxes are then limiting ownership rights. The missing constitutional principles must be supplemented by the decision-making activity of the Constitutional Court. The Court considers mainly the aspects of extreme disproportionality (the so-called choking effect) and non-accessory and accessory equality.

From the area of public subsidies law, the Charter of Fundamental Rights and Freedoms guarantees a free provision of public goods in the field of education. It also establishes the existence of public health insurance, i.e., the creation of specific public monetary funds, and the right to free provision of healthcare as a public good.

The last financial law area regulated at the constitutional level is the banking law. The constitution states that the Czech National Bank is the central bank of the state and defines the main objective of Banks's activities: to ensure price stability. The activities of the Czech National Bank may be interfered with only based on law.

#### **2.4. Slovakian financial regulation**

Slovak financial law is an internally diverse and structured branch of law. The foundations of financial regulation are contained in Title Three of the Constitution of the Slovak Republic (1992), under the title The Economy of the Slovak Republic, as well as in other laws forming the constitutional order of Slovakia. The Convention for the Protection of Human Rights and Fundamental Freedoms and the Charter of Fundamental Rights of the European Union are also included in this category of sources of law with the highest legal power. In these sources of constitutional law, we find, of course, only the basic principles of financial regulation, which are subsequently regulated in detail in laws.

For clear organization of this chapter, the following basic areas will be considered as the subject of financial regulation: budget law of the state and of local self-government; tax and fee law; customs law; monetary law; financial market law.

It applies to each of them that the foundations of regulation in a broader or narrower sense can be found in the constitutional order of the Slovak Republic.

## ***2.5. Polish constitutional regulation***

### *2.5.1. The Polish Constitution as a source of financial and tax law*

The constitutional catalogue of sources of law in Poland includes the constitution, acts, ratified international agreements, regulations, and acts of local law (in the activity of the bodies that established them).

The fundamental source of financial law is the Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws No. 78, item 483). Next in line are international agreements ratified with the consent of the act, which take precedence over the act in the situation when they conflict with the act (art. 91 of the constitution). Next are regulations issued based on specific authorizations contained in a statute (art. 93 of the constitution). The constitution is a normative act universally binding on the territory of the country or in the sector of activity of the body. In the Constitution of the Republic of Poland Chapter X is devoted to the issue of public finance. It contains information defining the process of collecting and disbursing public financial resources (article 216 paragraph 1) as well as the role of the state in this respect. The issue of adopting the state budget, as well as its changes or preliminary budget is also presented (articles 219-225). The provisions of the constitution have the character of general principles that must be respected when creating the tax law. In the constitution there are regulations concerning the tax system. They define: the tax base (art. 84); the definition of the essential elements of the construction of taxes (art. 217); the introduction of a specific procedure for the enactment of tax laws (art. 213) and the competence of self-governing bodies to create tax laws (art. 168). The constitution stipulates that the imposition of taxes is only possible by law (by parliament). The most important elements of a tax must be specified in the law. The constitution also does not allow for tax laws to be treated in an accelerated manner (they cannot be introduced in an extraordinary manner). Local government bodies (municipal councils) have the authority to set the amount of taxes and local government fees.

### *2.5.2. Constitutional and public finance rules (Articles 216–227)*

The general principles that concern the economy in the field of public finance are an important element of the social and economic system of the country. For this reason they must be reflected in the Basic Law. Having interpreted the contents of the constitution of the Republic of Poland, it is possible to identify four general principles of public finance in the Polish law. The first principle provides for statutory regulation of public financial management. The second principle is to guarantee protection of the state's financial interests. The third principle concerns the assurance of adequate

financial basis for the activities of local government units. The catalogue closes with the principle of guaranteeing protection of fundamental rights and financial interests of citizens.

The principles of public finance are the principle of publicity (this principle states that the management of public resources is public, i.e., the citizen has the right to know and to supervise the state budget); the planning principle (financial activities of public law entities and entities in the public finance sector are planned); accounting principle (the economic entity is obliged to keep accounts and to draw up reliable financial statements, which makes it possible to analyse and control financial processes); the principle of considering the financial consequences of legal acts and financial law (when proposing a bill, proposers must present the financial consequences of its implementation).

Chapter X places emphasis on social control relating to public finance management. This is confirmed by the fact that only by means of a law can regulations relating to the collection and distribution of public finances be established (art. 216). Another important principle established in (art. 217) is the possibility of introducing taxes and other levies only by statute, which also increases the role of social control in the state. Article 218 of the Polish Constitution establishes the obligation to regulate by law the organization of the State Treasury and the manner of management of state assets by the State Treasury. At the same time, together with other provisions of the Constitution of the Republic of Poland, it forms the basis for the view that the State Treasury is a legal entity of a special nature, deriving its legal personality directly from the Constitution of the Republic of Poland and the Civil Code. In article 219, the constitution empowers the Sejm to enact the state budget. The budget is enacted in the 'Budget Act'. The constitution in article 227 gives the National Bank of Poland the status of a central bank, with the exclusive right to issue money, as well as to determine and implement monetary policy.

### *2.5.3. The constitution and basic concepts of public finance institutions*

Provisions defining the essence of a financial institution will be detailed norms when they indicate the basis of the institution in the procedure, which implies that it cannot be regulated in the ordinary law, and thus sufficiently define the essence of the institution—sufficiently characterise the essential features (detailed definition). If the provision insufficiently specified the essence of the institution, i.e., partially characterized the essential features, or did not do so at all. If the legislator has used the notion of a given institution as a notion that has an established meaning, then we are dealing with a general constitutional norm. The legislature leaves this essence to be regulated, supplemented also by an ordinary law.

If a provision has insufficiently defined the basis of a given institution, the assessment would need to be made with reference to the regulation of the ordinary law. To check whether a provision has sufficiently defined the basis of a given institution, the assessment would need to be made in the context of the possible scope of control of the constitutionality of the institution in question. In defining a financial institution there

may arise the problem of the concepts of other financial institutions used to define it. A problem which, if it indeed arises, may negate or weaken the relevance of constitutionalization for the existence and functioning of a given financial institution.

The detailed definition of financial institutions and the introduction of financial restrictions into the constitution was introduced to realise the objectives of constitutionalization and to increase the scope of control over the creation of financial legislation.

## ***2.6. Romanian constitutional regulation***

### *2.6.1. The right to financial resources*

Art. 137 of the constitution, entitled ‘Financial system’, states in the first paragraph that ‘Formation, administration, use and control of the financial resources of the state, of territorial-administrative units and public institutions shall be regulated by law’. Apparently, a vapid text which does not bring much constitutional contribution, only transferring the responsibility of regulation to the legislative level. But there are several relevant regulatory aspects which must not be overlooked. We will try to point them out throughout this chapter.

The most important one is that this text codifies the right of the public authorities to financial resources. It clearly implies that they are entitled to have and manage money. This reality is not automatic or self-evident, but it had to be ratified by the nation’s fundamental act. The public finance impacts and defines in such a measure the entire activity of the state that it had to be recognized and established at the constitutional level

Two further aspects must be emphasised regarding this right. First, its rightful holder. Who precisely has the right to receive, detain and spend public money? Interestingly, the constitutional text does not remain in the realm of generic terminology but offers some distinctions on this matter. Secondly, is there a corresponding obligation to this right? If the public authorities have the right to obtain money, who has the obligation to provide it?

### *2.6.2. A distinction regarding the right-holder*

In common language, a general designation is usually employed regarding the holder or owner of the public finance: it is the state, the government, the administration, the public system, or the public authorities. But art. 137 para. 1 offers in fact an important specification on this issue, by mentioning that de financial resources belong to the state, to territorial-administrative units and to public institutions. The reference to the state is natural and not surprising, but the inclusions of the other two entities has a manifold meaning.

The territory of Romania is administratively organized into certain units, called territorial-administrative units. These units are public law legal entities, with full juridical capacity and their own patrimony. After the strict centralization of the communist era, the present democratic constitution envisioned a large decentralization of these entities. Thus, they benefit from a large administrative autonomy, that is the right and



capacity to manage and solve the public affairs of the local community that they represent. The constitutional recognition of a right to financial resources is in fact a strong affirmation of the principle of local autonomy. Territorial-administrative units have a right to their own financial resources, which the local Administration authorities can determine, manage, and utilize to adequately perform their attributions. Without this financial autonomy, the concepts of decentralization and local autonomy remain only an illusion.

In support of this right, other constitutional provisions consecrate the right of the local authorities to establish and collect local taxes (art. 139 para. 2) and the right to draft, approve and execute local budgets (art. 138 para. 4). The financial autonomy is thus strengthened, the territorial-administrative units being able to manage both the level of their revenues and the distribution plan of their resources.

The reference to the public institutions is somewhat superfluous. Public institution is a generic designation which includes all the public authorities and bodies. They are all in fact distinct entities in the massive organizational structure mainly of the state, but also of the territorial-administrative units. That is why their distinct mention in the constitutional text seems repetitive. But there is a purpose in that. It consecrates a right of all public institutions to financial resources. Their status is quite different: some of them have juridical personality, some do not; some have a high degree of independence, some are integrated in strict hierarchical structures. But all have their own part in the functioning of the public mechanism. All have been assigned a set of attributions that they must exercise. That is why they have the right to financial resources. Having no possibility to establish their own sources of financing, being completely dependent upon the public allocation of resources, this right implies a constitutional obligation of the state and the territorial-administrative units to provide each of them with the sufficient resources for their proper functioning.

The sense of the constitutional text becomes thus obvious. The distinct mentioning of the territorial-administrative units and the public institutions has a restraining purpose. It confers them their own right to financial resources, a right that can be interposed to the state. It is thereby a direct attempt to break the monopoly of the state upon the public financial resources, recognizing the importance of their activity and warranting them the allocation of necessary funds.

### 2.6.3. *A corresponding obligation*

After a consistent chapter devoted to fundamental rights and freedoms, the Romanian Constitution imposes three fundamental duties to its citizens: faithfulness towards the country, defence of the country and financial contributions. Thus, art. 56 para. 1 states that '*Citizens are under the obligation to contribute to public expenditure, by taxes and duties*'. It is obviously the counterpart provision to the right of the state to have financial resources. If public revenues can be procured from a lot of different sources, however the main source remains the funds collected from the population.

The text is not to receive a strict interpretation, but an extensive one. First, not only the citizens have this obligation, but also the legal entities or other collective

entities that obtain revenues or undertake activities subjected to the taxation system. Even the non-citizens who are in a certain relation with the Romanian State may be subjected to its fiscality. Secondly, the actual means of contributing are not to be reduced only to taxes and duties but can include other forms of contributions.

A principle of solidarity is the underlying fundament of this obligation. The state does not impose its financial claims abusively, on the ground of its force and constraining power, but based on the fact that it represents the nation's general interest. As the text makes evident, the collected resources are for the purpose of making possible the payment of public expenditure. Thus, when the citizens make the pecuniary sacrifice required by the fulfilment of this obligation, they should be motivated by the perspective of supporting and advancing both their own and the general good.

### ***2.7. Financial constitutionality of the Republic of Serbia***

When considering financial constitutionality, one should start from the fact that the constitution is the highest legal act in a country and that all positive rights have their source in the constitution, which is why they must be harmonized with the constitution. Since financial law is a branch of a positive legal system, its source is in the constitution. It is built on the principles contained in the constitution, that is, its legal solutions must be in accordance with the constitution. Tax laws must derive from the constitution, that is, they must be built on the principles proclaimed in the constitution. Therefore, the basic requirements on which the financial right is built are contained in the constitution. The constitution contains mostly declaratory norms whose obligation is achieved by norms of other branches of law (even financial), while financial law contains imperative norms whose obligation is secured by the application of sanctions. It follows that financial law cannot exist without constitutional norms. On the other hand, through tax law, the constitution gains its concretization and realization.

We find legal institutes of financial law in the provisions of the 2006 constitution on the economic organization of the Republic of Serbia. According to the Constitution of the Republic of Serbia, the economic system in the Republic of Serbia is based on a market economy, open and free market, freedom of entrepreneurship, independence of economic entities and equality of private and other forms of ownership.

According to the constitutional provisions, the element of economic regulation is also public finances, which in the constitution means the acquisition and distribution of funds for financing public needs. The constitution regulates the subjective financial law of the county, that is, the right to introduce and collect taxes and prescribe the duty of individual and legal entities to act in accordance with tax regulations. Modern constitutions have established the principle of legality of taxes, which can be expressed by the maxim *nullum tributum sine lege* (there is no tax without law). Thus, Article 91, paragraph 1 of the Constitution of Serbia prescribes that the funds from which the competencies of the Republic of Serbia, autonomous provinces and local self-government units are financed are provided from taxes and other revenues determined by law. Paragraph 2 of the same article proclaims the rule that the

obligation to pay taxes and other duties is general and is based on the economic power of the taxpayer. This constitutional principle is further elaborated upon in the tax regulations.

The constitution stipulates that the Republic of Serbia, autonomous provinces and local self-government units have budgets in which all revenues and expenditures that finance their jurisdictions must be presented. In terms of deadlines, the constitution stipulates that the law determines the deadlines within which the budget must be adopted and the manner of temporary financing in case the new budget is not adopted, and the validity of the previous one has expired.

The execution control over all the budgets is performed by the Country Audit Institution. The Country Audit Institution is the highest country body for the audits of public funds in the Republic of Serbia, it is independent and subjected to the supervision of the NA, to which it suits. The NA is considering the proposal of the final budget account based on the obtained opinion of the Country Audit Institution.

The constitutional category in the field of public finances is also public debt, i.e., debt of the country and public bodies. The constitution provides for the possibility of borrowing by the Republic of Serbia, the autonomous province and local self-government units in accordance with the law.

The Constitution of Serbia contains certain provisions that also refer to the matter of application of tax law. The realization of the norms of tax law encroaches on the freedom and rights of tax debtors guaranteed by the constitution. However, this restriction of freedoms and rights is provided for in the constitution itself, i.e., situations that may cause this restriction are provided. Thus, the provision of Article 40, paragraph 1 of the Constitution of Serbia proclaimed that the apartment was invulnerable. However, based on paragraph 2 of the same article, another's apartment or other premises may be entered against the will of their occupant based on a written court decision. In that sense, the provision of Article 125, paragraph 5 of the Law on Tax Procedure and Tax Administration stipulates that the tax inspector has the right to enter the taxpayer's apartment with the approval of the court, to perform control.

The provisions of the constitution that refer to the position of the country administration are also important. Based on these constitutional provisions, the organization of the Tax Administration, which appears as a tax authority as a participant in the tax procedure, is considered.

## ***2.8. Slovenian constitutional regulation of public finances***

There are constitutional provisions (Chapter VI of the CS) and several laws and sub-laws regulating public finances, state and municipalities funding, taxes, and the budget.

There is a general constitutional rule, that all revenues and expenditures for financing public spending must be included in the state budgets. In addition, a so-called golden rule is constitutionally stipulated, namely, that revenues and expenditures of general government budgets must be balanced in the medium term without borrowing, or revenues must exceed expenditures.

This principle may be temporarily waived only in exceptional circumstances for the state. The CS stipulates that the law adopted by the NA by a two-thirds majority of all deputies must determine the manner and timeframe for implementing the principle of golden rule (balance of revenues and expenditures of budget), the criteria for determining exceptional circumstances and the manner of acting upon their appearance. Such a law is FRA.

The main characteristics of constitutional regulation					
	Legal source	Financial rules	Content of constitutional regulation	Protection of the Constitution	The highest-level audit institution
Hungary	Fundamental Law	detailed (constitutional law of public finances)	chapter on public funds: public funds and asset management, government debt, public charges, money, and monetary system	Constitutional Court <i>limited power in the field of public finances</i>	State Audit Office
Croatia	Constitution	relevant financial provisions are rather scattered through-out the document	basic principles or guarantees, budget law	Constitutional Court	State Audit Office
the Czech Republic	Constitution and Charter of Fundamental Rights and Freedoms (part of the Constitution. Constitutional Order)	public finances are not regulated in Constitutional Order	but there are specific parts of the constitution for the Czech National Bank, and Supreme Audit Office,	Constitutional Court	Supreme Audit Office
Slovakia	Constitution	basic principle of financial regulation		Constitutional Court	Supreme Audit Office

The main characteristics of constitutional regulation					
	Legal source	Financial rules	Content of constitutional regulation	Protection of the Constitution	The highest-level audit institution
Poland	Constitution	detailed regulation	four general principles- statutory regulation of public financial management. - guarantee protection of the state's financial interests – the assurance of adequate financial basis for the activities of local government units – guaranteeing protection of fundamental rights and financial interests of citizens. Principles of public finance: publicity, planning, accounting, considering	Constitutional Tribunal	Supreme Audit Office
Romania	Constitution	detailed regulation the right to financial resources	the financial resource belongs to the state, to territorial-administrative units and to public institutions. citizens are under the obligation to contribute to public expenditure, by taxes and duties	Constitutional Court	State Audit Office

The main characteristics of constitutional regulation					
	Legal source	Financial rules	Content of constitutional regulation	Protection of the Constitution	The highest-level audit institution
Serbia	Constitution	detailed regulation	the subjective financial law of the country: the right to introduce and collect taxes. the constitution stipulates that the law determines the deadlines within the budget must be adopted and the manner of temporary financing in case of new budget is not adopted, and the validity of previous one has been expired. constitutional category the public debt	Constitutional Court	Country Audit Institution
Slovenia	Constitution	Fiscal Rule Act (FRA)	all revenues and expenditures for financing public spending must be included in the state budgets; golden rule: revenues and expenditures of general government budgets must be balanced in the medium term without borrowing, or revenues must exceed expenditures.	Constitutional Court	Court of Audit

Summing up the table, we can see that financial regulation appears in the constitutions of each country, albeit to varying degrees. The Hungarian, Polish, Romanian and Serbian regulations contain particularly detailed provisions. In all cases, we find rules related to the budget in the constitutions. Constitutional protection is carried out by the constitutional court in each country. The State Audit Office plays an important role as the most important body for auditing in each country. Monetary policy is always managed by national banks. The Treasury is named in two countries: Hungary and Poland. Local governments are entitled to their own revenues and have their own budgets.

### 3. Budgetary rules

#### 3.1. *Hungarian budgetary rules*

The constitutional regulatory system of public funds is not new in the domestic regulation, but the provisions of the previous constitution were not as detailed as in the current one. However, the re-regulation of public funds was forced by the financial-economic crisis of 2008. The new Fundamental Law lays down the essential provisions of rule-based fiscal policy.

According to the literature, the rule-based fiscal policy is defined by the following: budget policy rules, planning requirements; procedural rules; transparency standards, reporting system; institutional guarantees for compliance with the rules.

One of the most important tasks of the state is the performance of public services. To guarantee public services, budgetary resources are needed which are secured by the annually adopted budget law. While the act on public finances sets out general, framework rules of the central budget, including procedural rules, specific budget laws set the financial framework for a given economic year and provide rules for that certain year. The creation of the regulatory system of the budget law is therefore a recurring activity, with yearly recurring tasks and rules on power and procedures. That is why this procedural order is called the budget cycle. The particularity of the budgetary cycle is that on one hand, it is a document that determines the rules of the central budget—which requires special planning and approval—on the other hand, it is an act, therefore the set of rules of legislation also applies for it.

The budgetary procedure, the budget cycle means the order of planning, implementation and control of the budget and it covers all phases of the procedure.

The relation of the executive and the legislative power is particularly important in the budgetary procedure. The balanced relation of the two branches and the division of power between them is crucial. In the Hungarian regulation, the Fundamental Law and the framework rules of the Act on Public Funds provide the necessary legal framework, thus the fundamental decisions originating from state sovereignty are taken by the parliament.

The role of the Fiscal Council makes determinations so that the National Assembly can make a well-founded decision about the approval of the budget and therefore, to ensure its adoption, the opinion of a professional body that is independent from the executive branch is necessary. The contribution of the council is essential in the procedure of the approval of the budget to comply with the government debt rule.

The Fiscal Council is a body that supports the legislative activity of the National Assembly which examines the grounds of the central budget. The council is involved in the drafting of the law on the central budget and its preliminary approval is required for the adoption of the law. Due to these rights, the council has a significant effect on the compliance of the budget to the requirements of the Fundamental Law and it specifically monitors the compliance of the rules on government debt ratios. The president of the Fiscal Council, the president of the Hungarian National Bank and

the president of the State Audit Office are the members of the council. The president of the council is appointed by the president of the Republic for six years. The organization and the operation of the council are regulated thoroughly in the Act on the Economic Stability of Hungary.

The duties and the powers of the Fiscal Council are (a) the expression of opinion regarding the central budget; (b) decision on the preliminary approval; and (c) the examination of the ratio of government debt.

The expression of opinion extends to several phases of the budgetary procedure. The expression of opinion of the council is not only limited to a mere right to advice or comment, but in several cases, the legislator also prescribes certain consequences that affect the order of the procedure. (Such a case, *inter alia*, is an opinion on the draft sent to the government, in which the council may indicate its disagreement. The Government, therefore, must renegotiate the draft.)

The decision on preliminary consent is also a strict quasi-veto power. The council is empowered by the Fundamental Law, stating that the consent of the council is required for the approval of the law on the central budget, to comply with the government debt rule.

The most important task of the council is to monitor compliance with the government debt rule. The provisions on the government debt rule are laid down in the Fundamental Law. The essence of this rule is that the National Assembly must adopt such a budget law—to ensure sustainable public finances and responsibilities for the future generations—according to which the government debt must not exceed the half of the gross domestic product, that is the optimal ratio of government debt set out by the Fundamental Law. Currently, however, the government debt significantly exceeds this level, therefore, the parliament must adopt such a budget law that intends to reduce this debt until the optimal ratio is reached. Obviously, the Fundamental Law allows derogation from the general rules in certain cases when serious, unavoidable problems arise in matters that affect public finances. Such an exceptional situation arose during the economic crisis in connection with the covid pandemic.

The first phase of the budgetary procedure is budget planning. The aim of budget planning is to approve the planned revenues to be economically justified and the planned expenditures to be necessary for the proper performance of public tasks. Preferences of budget planning are the most important factor in the budget planning mechanism. Expenditure should be used for the purpose of the budgetary target system, and revenues should be grouped here to perform the public task. Obviously, the multiplicity of public tasks and goals and the scarcity of the available resources are sources of conflicts, therefore, coordination and harmonization between decision-makers and the establishment of budget preference systems are of crucial importance.

Budget planning is typically a short-term activity that focuses on financial matters, however, demographic, economic conditions, and trends, as well as long-term goals and financial sustainability must also be considered. That is why the coordination of financial and realistic processes is important according to the literature, which



could be realized with a complex strategic planning. Under the current regulations, the government also carries out medium-term planning, since it also plans budget appropriations for the following three years.

Planning is facilitated by the principles that must be taken into consideration during the process. These principles ensure the efficiently and transparently operating economy and a system of legal guarantees. The principles are divided into two groups: general and other principles (such as authenticity, completeness, etc.) can be distinguished.

The general principle is set out in the Fundamental Law. The principle can be considered general because—according to the explanatory memorandum—the exercise of fundamental rights and the efficient operation of the state can only be guaranteed if the social and economic balance of the country is not threatened by problems of public finances. Therefore, the basic principle of budget management and budget planning is that Hungary implements the principle of a balanced, transparent and sustainable budget management, which must be respected by all bodies operating in both of the sub-systems of public finances. Balance serves the predictable functioning of the state, transparency serves the democratic life operating with well-informed and responsible citizens and sustainability serves the responsibility for future generations. Sustainable public finance management encompasses several financial principles, but the previously mentioned government debt rule has particular importance. The Fundamental Law delegates the task and responsibility of planning to the government, and the government submits the bill on the central budget to the parliament. It is the parliament's right to decide on all public revenues and expenditures, which also determines the leeway of the executive power, the government. With the adoption of the budget law, the parliament determines its own leeway for public finances. The Fundamental Law defines it as the main task and power of the parliament.

The Hungarian law does not set a deadline for the adoption of the budget, but the optimal case is when the budget is adopted by the end of the year preceding the year in question. However, it may occur that the adoption is delayed, and the final vote will take place in the target year of the budget. In this case, the *ex-lex* situation may arise in which the government does not have the power to continue budget management. According to the Budget Act, the government is entitled to implement the budget for one year, therefore a bridging rule is needed, under which the government may continue budget management. Such a rule was previously set out by the Public Funds Act, in today's regulation it is the Fundamental Law that provides regulation on the issue. The Fundamental Law states that if the parliament fails to adopt the budget by the beginning of the calendar year, the government is authorised to collect the revenues determined in laws, and, within the framework of the appropriations determined in the Act on the central budget for the previous year, disburse expenditures on a *pro rata temporis* basis.

It may happen during the final vote that the parliament does not vote or does not accept the budget law or its adoption is in delay. In this case, to not threaten public

finances and not to last for an indefinite time, the Fundamental Law provides a solution. The President of the Republic, while simultaneously setting a date for new elections, may dissolve the National Assembly when it fails to adopt the central budget for the year in question by 31 March.

If the budget is approved, the parliament authorizes the government to collect revenues and to implement expenditures (appropriation). The principle of responsible budget management must obviously apply to the government.

Public funds used in the management of public finances must be accounted for, and after the end of the financial year, the government is required to report on the implementation of the budget. Budget reporting is a technical and legal act, the conditions of which are set out in different acts apart from the Fundamental Law. The government must implement the central budget lawfully and expediently through the efficient management of public funds and transparency, and it is obliged to report this to the National Assembly. The report and the implementation of the budget is approved by the parliament, by controlling its execution at the same time. The government is responsible for the implementation of the budget, therefore, with the approval of the National Assembly it discharges the government from liability.

The reporting system also allows the control of the implementation of the budget but besides this, it is also necessary to set up the control system for public finances as well. The purpose of the control of public finances is to use public funds and national assets to ensure a lawful, economic, efficient, and effective management and the proper and lawful fulfilment of reporting and information obligations. The control system of public finances involves both sub-systems, which are divided by scholars into external audit and internal financial control. The Public Finance Act, however, divides the control system of public finances into three areas: external audit of public finances, the Government Act, control of public finances, the internal control system of public finances.

The tasks related to the external audit of public finances are executed by the State Audit Office. The State Audit Office is the supreme financial and economic audit organ of the National Assembly which is independent from any other bodies in its activities. It has general competence for the management of public funds and local governmental properties. The explanatory memorandum of the regulation also points out that the legislator opted for the office-type audit among the court-type, authority-type and office-type audit models. Thus, the State Audit Office does not have direct sanctioning powers, therefore its suggestions and findings are implemented through the activities of other organizations.

Besides public finance management, public asset management is also a constitutional area of high priority. Assets available for public finances are part of public finance management as well as assets that are not part of asset management but they play an important role in the performance of public tasks and they constitute revenues for public finances. From this theoretical aspect, the asset can be divided into public finance assets and assets that do not belong to public finances, however, the legislation does not follow this division. Assets that are available to the state and

to the local governments thus, on one hand, form the basis for the performance of public tasks and on the other hand, serve as a source of revenue for the performance of public tasks. The Fundamental Law also emphasizes the performance of public tasks. The constitutional regulation points out that the purpose of national property is to serve public interest and to meet public needs, of which the detailed regulation is set out in a cardinal law, the Act on National Assets. As a result, national property enjoys high protection.

The law divides assets both horizontally and vertically. Horizontally, the national asset can be divided to two equal parts, property of the state and that of the local governments. The explanatory memorandum of the law points out that the principle of lawful division prevails in the division of the assets of the state and of local governments, thus the assets are linked with the performance of tasks. This reflects the basic principle that the primary purpose of national assets is the performance of public tasks. This division applies in the regulation as well. The general rules on national assets cover both types, however, the property of the state and the property of local governments are regulated specifically and separately in the acts on state property and in the Local Government Act. Under the unified regulation, the National Property Act defines national property as a whole, considering both the property of the state and the property of local governments.

Vertically, national assets can be divided into four categories, primarily from the perspective of the severity of the regulation of asset management and the protection of the assets. The categories of assets are defined according to the gravity of public interest in the protection and preservation of national property, thereby defining stricter or more permissive rules. The four categories apply to the entirety of assets, so these categories appear in the division of both state and municipal assets.

The four categories of national assets: (a) exclusive property of the state and of local governments; (b) national assets of outstanding importance for the national economy; (c) national assets with limited marketability; (d) business assets.

Exclusive property of the state and of local governments are completely illiquid. It means that, generally, the property cannot be alienated, right of use, right of installation of masts, for example, cannot be established, it cannot be mortgaged, and shared property cannot be established on it. An exception from this rule is the establishment of the right to use or the right of way for the benefit of entities authorized for public interest in a separate legal act.

National assets of outstanding importance for the national economy are those which do not belong to the category of exclusive properties but of which the preservation by the state or local governments are justified overall and which is an outstanding purpose of asset management. Generally, these assets are also subject to restraint on alienation and encumbrance, except for the right to use and right of way established by law.

Assets with limited marketability are national assets that do not belong exclusively to the state nor to the local governments and that are not considered as national assets of outstanding importance. The property can be managed under the conditions

specified by law or local governmental decree, so the management of these assets are limited and fixed.

Business assets are the part of national assets that do not belong to the state treasury nor to local governmental assets. Elements of business assets do not fall into the scope of particularly protected assets, the right to manage them is not limited by law. These assets are not subject to the prohibition of alienation and encumbrance, they can be managed freely by the state and local governments, within the limits of the general rules of asset management. This property can be alienated, encumbered and rights representing assets can be registered to them. The purpose of business assets is to provide revenues, enforce strategic economic interests and perform certain public tasks in a marked-based way in return for payment.

### ***3.2. The budgetary law in Croatia***

The constitutional regulation of the budget is further developed in several laws which could be divided in subjective and objective budgetary law. The most important provision of subjective budgetary law (which is absolute subjective budgetary law in Croatia) is the Act on Budget (also systemic regulation). The Act on Executing the Budget (which is a one-year law, adopted annually along with the budget) is the provision of objective budgetary law. Then there is the state budget ('law in numbers'). *Largo sensu* the Act on Budgetary Responsibility, the Act on Financing of Local and Regional Self-government, and the State Audit Office Act must also be mentioned.

The central instrument of budgetary system is the budget of the general state, consolidated statistical statement of the planning data on revenues and expenditures, receipts and outlays of all subjects included in the general state, i.e., central state, local state, and social security funds.

The state budget and financial plans of extrabudgetary users are included in the so-called central state budget. Extrabudgetary users function as a special fund budget funded by specific mostly earmarked revenues.

According to the Law, the state budget is defined as an act estimating revenues/receipts and determining expenditures/outlays, enacted by the Croatian Parliament. Although the principle of annuality is a rule, it is supplemented by the principle of multi-year planning. In that framework, the budget (and financial plans) is enacted for a three-years period meaning a plan for the budget year and projections for the next two years (n+2 system). The projections are not binding except with the budgetary deficit/surplus limitations. The main functions of the budget are following: it has important strategical and management role in the public finance policy domain; it serves as the main instrument of state intervention; it is the most important financial instrument. Budgeting is geared to a cycle consisting of four usual phases: (1) preparation and design; (2) adoption and approval; (3) execution; (4) evaluation. The average duration of the cycle is 27 months. For the first and third phase executive authorities are responsible while in the second and fourth phase the parliament has the main role.

As stated above, the state budget is *sui generis* law, and it differs from ‘standard’ laws in formal and substantive aspects. In a formal aspect, primarily it is the law in numbers. The formal difference also tackles a special (legislative) procedure visible in, for instance, the existence of budgetary calendar (a concise schedule of activities, activity holders and statutory deadlines for preparing and submitting the draft of state budget); in the special meaning of the parliamentary debate and approval (the principle of prior approval); the possibility of introduction of a temporary financing (in the case of non-approval of the budget). In the substantive aspect, budget norms are temporary limited (they are in force only during a budgetary year) and individualized (especially in the special part where the addressee of the norm is known).

Structurally, the state budget consists of two main parts: a general and a special part. Within the general part, two accounts are differentiated: (i) the account of revenues and expenditures, (ii) the account of receipts and outlays. The first account contains revenues and expenditures classified in accordance with economic classification. The second one contains all transaction (receipts and outlays) related to the financial assets and borrowing. A special part is a plan of expenditures and outlays of the state budget and its budgetary users presented in accordance with the organizational classification. Budgetary revenues/recipes and expenditures/outlays in all budgetary documents are presented pursuant to budgetary classifications. There are six of them: economic (being the most common and important), organizational, functional, programming, locational, source of financing classification. Revenues should be classified following economic and source of financing classification whereas expenditures should be classified under all mentioned classification.

The state budget revenues and receipts include taxes, social contributions, revenues from assets, revenues from administrative fees, charges, fines, other revenues, revenues from financial assets.

The most important expenditures are operational expenditures which include expenditures for employees, material expenditures, financial expenditures, subventions, social expenditures, and others.

The budget of local and regional units is defined in a similar way as described above—as an act enacted by the representative body of local and regional self-government unit that entails a plan for a budgetary year and projections for next two years estimating revenues/receipts and expenditures/outlays of local and regional units and its budgetary users. However, the Act on Local and Regional Self-government defines it as the basic and most important financial act. The act also emphasizes constitutional principles (mentioned above) on which financial autonomy of sub-national units is established. The revenues of the budgets of sub-national units include own taxes, shares in personal income tax, grants, non-tax own and assigned revenues in accordance with special provisions. Own taxes are regulated by a special Local Taxes Act. Local taxes are defined as taxes whose revenues belongs to the sub-national units and could be further labelled as county or municipal taxes. Hence, inheritance and gift tax, tax on road motor vehicle, tax on vessels and tax on gambling machines are county taxes. Surtax (on the PIT), tax on local consumption, tax on holiday houses,

tax on the use of public surfaces, tax on real estate transfers are municipal taxes. PIT is a shared tax. Non-tax revenues include a variety of revenues among which the most significant (financially) are communal fee and communal contribution. Despite the decentralization process in force for the last twenty years (since 2001), the importance of ‘local state’ (measured by share of local expenditures in GDP) is growing very slowly—it remains mainly stable comprising around 15%.

In 2011 Croatia adopted the Act on Fiscal Responsibility. This act was adopted to achieve and maintain fiscal responsibility as well as to promote and strengthen the transparency and medium-term and long-term sustainability of public finances. In that context, the act introduced fiscal rules concept, two groups of them. The first one tackles certain fiscal goals and limits in relation to the structural balance, annual growth of budgetary expenditures and public debt level. The second one deals with the concept of fiscal responsibility of the head of the budgetary (and extrabudgetary) users of the state budget and of budgets of local and regional self-government. The crucial instrument is a statement on fiscal responsibility by which the head confirms that they have ensured legal, earmarked, and purposeful use of funds, efficient and effective functioning of the internal control system within the framework of the funds determined in the budget, financial plan respectively. The obligation also includes companies owned by the Republic of Croatia or local and regional units as well as legal entities founded by the Republic of Croatia or subnational units. The act also provides the establishment and competences of the Fiscal Policy Commission. The commission is an independent expert body established to envisage and evaluate the implementation of the fiscal rules. During the performance of its tasks, the commission takes the ‘positions’ that are posted on the website of the commission. A special procedure is prescribed in the case of serious fiscal risks. If the commission assess that there is such a risk, it prepares a special report for the government who must give an opinion within 45 days or if it is necessary to undertake additional measures.

As previously mentioned, it is inevitable to refer to State Audit Office as the supreme audit institution in Croatia. The entities subject to audit are numerous: state sector units, subnational units (including Croatian National Bank), legal entities financed from state budget, legal entities financed from the state budget, legal entities founded by the Republic of Croatia or local and regional self-government units and legal entities owned by the Republic of Croatia or local and regional self-government units, companies and other legal entities in which the Republic of Croatia or local and regional self-government units hold a majority block of shares or stakes and/or exercise a decisive influence on management, legal entities (subsidiaries) established by legal entities of which the founder is the Republic of Croatia or local and regional self-government units, legal entities which secure their operating funds from mandatory contributions, membership fees or other revenues regulated by law, political parties, independent members of the parliament and members of the representative bodies of local and regional self-government units in the manner stipulated by legislation governing the financing of political activities and election campaign promotion, legal entities in the Republic of Croatia that utilize funds from the European Union,

international financial mechanisms and other international organizations or institutions to finance public needs.

The object of the audit are revenues and expenditures, assets and liabilities, financial statements, transactions and the programmes, project, and activities of the audited entities. The audits are conducted in accordance with the Annual Programme and Plan of Work. The Croatian Parliament may also request the audit. The audit of the Execution of the State Budget is conducted every year.

### ***3.3. Budgetary law in the Czech Republic***

Budgetary law is a set of legal norms that regulate the system of public budgets, the content of public budgets, fund management, the budgetary process and the relations arising in the creation, distribution, and use of the financial assets in these public budgets. Budgetary law refers to the fact that through budgets, there is a redistribution of resources from resource-creating entities to those who do not create resources but who are an integral part of society. Budgetary law is commonly classified into three main parts: general (which defines general terms of budgeting, the various types of public budgets, budgetary principles, and budget's functions), special (dealing with the special rules on individual public budget types: state budget, budgets of state funds and budgets of local governmental units), procedural (containing the procedural rules of budget's creation, time limits and sanctions). Therefore, in short: the system of public budgets, their content, financial management, the budget process, and the related relations that arise in the distribution and use of funds are regulated by budgetary law.

All public budgets display several common basic features that are referred to as budgetary principles. These are the common characteristics, underlying the preparation, adoption, management, and control of public budgets, derived from knowledge of budgetary practice. The most relevant of these principles: (a) annual preparation and approval of public budgets (limiting the temporal validity of public budgets for one year, the carryover of funds to the following year is possible only to a limited extent); (b) timeliness of public budgets (the need for public budgets to be approved and published before the beginning of the financial year); (c) time-limited use of funds (only revenue received and expenditures allocated during the actual calendar year are included in the budget, e.g., budgetary units need to spend their allocated funds by the end of the financial year); (d) reality and veracity of public budgets (public budgeting should be based on an analysis of economic processes and real numbers); (e) completeness of public budgets (a public budget should provide a complex coverage of all revenues and expenditures over a given territory); (f) unity of public budgets (which requires a uniform qualification and classification of revenue and expenditure in public budgets); (g) clarity of public budgets (the budgetary structure should be clear, simple and comprehensible); (h) non-earmarking of revenue and earmarking of expenditure (budget revenue should not be earmarked for predetermined purposes, but, on the contrary, expenditure should be used only for a predetermined purpose; also: does not fully apply to fees, since these compulsory payments are usually paid

in return for some public service); (i) long-term balance of public budgets (budgets must normally be drawn up as a balanced); (j) publicity of public budgets (public budgets must be made publicly available in an appropriate manner—this includes the possibility for citizens to comment on the published draft budget); (k) gross budgets (meaning drawing up public budgets containing total revenue and total expenditure); (l) efficiency and economy of public budgets (public funds should not be wasted); (m) expenditure over revenue (expenditure should serve economic growth for which adequate resources should be provided: it is necessary to have objectives for which expenditure is needed and to provide the necessary revenue for this) and (n) identification of the budgetary implications of legislation (which should include quantifying the expected impact of new legislation on public budgets).

According to the legal sources, the system of public budgets includes the state budget, state funds budgets and budgets of local governmental units. Among these, the state budget has an increased relevance, which is approved each year in the form of a law, which goes through the normal legislative process. The purpose of the state budget is to create a financial plan to reallocate the state's funds to certain state tasks in the following year. The state budget is a monetary fund that collects the state's revenues so that these can be further used to cover the state's expenditures and functions. This type of budget is characterized by its irreversibility, non-voluntariness and non-equivalence, whereby revenues and expenditures are used for the needs of the state.

Public subsidies law is a set of legal rules that governs the conditions for providing of public funds in the form of subsidies. Subsidies law is closely related to the law of budgetary law, however according to theoretical approaches, budget law can be conceived in a narrower sense, as essential components of public budget revenues and expenditures are regulated by separate special regulation, like public subsidy law, social security law, etc.

The term subsidy (or grant) lacks legal definition in the Czech legal system, but as such a financial contribution from public sources or any other direct or indirect financial support or subsidy from such sources can be defined. Furthermore, relief from a tax or other public obligation which confers a benefit on the recipient can be considered as a subsidy also. Subsidies are the means of transferring funds within or outside the budgetary system, so the beneficiaries can be other state organs too.

The granting of subsidies is decided by the public body according to its own discretion under certain predefined conditions. The legal rules should ensure that in the field of subsidies equal opportunities are ensured between applicants, to eliminate the creation of illegal conduct or other negative consequences. Essential features of subsidies are their non-repayability (the beneficiary is not obliged to return the received grant if it fulfils all the conditions set out in for the grant) and frequent earmarking (the recipient of the grant is obliged to use the grant for a predetermined purpose).



### ***3.4. Slovakian budgetary law***

Article 58 of the constitution provides that the financial management of the Slovak Republic is kept through its state budget. The state budget is adopted by a law. According to the constitution, a law must lay down budgetary revenues, procedures of budgetary management and the relationships between the state budget and the budgets of territorial units.

The importance of the state budget as the basic financial and economic instrument of the state's financial policy is also highlighted by the constitution in that the state budget (and taxes and levies) may not be the subject of a referendum (Article 93).

Article 65 of the constitution also regulates the foundations of the financial management of local self-government. According to the constitution, municipalities and higher territorial units are legal entities, which manage their own property and financial means independently, under the conditions laid down by a law. Municipalities and higher territorial units must finance their needs primarily from their own revenues as well as from state subsidies. It must be laid down by a law which taxes and fees are to be the revenues of a municipality and which taxes and fees are to be the revenues of a higher territorial unit. State subsidies may be claimed only within the limits laid down by a law.

Among the constitutional foundations of budget law, we must also include Article 60, establishing the Supreme Audit Office as an independent authority auditing the management of budgetary and financial resources of the state, local self-government, and public institutions. Its audit competences apply to all persons who manage and dispose of these funds.

The constitutional regulation of the state budget and the foundations of financial management of local self-government is further developed in several laws. The most important sources of budget law include: the Act on Budgetary Rules of Public Administration (2004), the Act on Budgetary Rules of Local Self-government (2004), the State Budget Act, which is adopted every year, and the Constitutional Act on Budgetary Responsibility (2011).

The current concept of budget law thus has its foundations in 2004, when the abovementioned laws on budgetary rules were adopted as part of the package of laws of the so-called Fiscal Decentralization. In addition to the abovementioned laws, the Fiscal Decentralization framework also includes the Act on Local Taxes and Local Fee for Municipal Waste and Minor Construction Waste (2004), and the Act on the Budget Determination of Income Tax Revenues to Local Self-government (2004).

The central concept of budget law is the general government budget, which is a medium-term economic instrument of the state's financial policy. It is drawn up annually for at least three budget (calendar) years. The general government budget consists of the state budget and the aggregate of the budgets of other public administration entities (municipalities, higher territorial units, state funds, higher education institutions, the Social Insurance Agency, health insurance companies, and others), including revenues and expenditures related to the implementation of public health insurance for a respective financial year and the following two years. However, it

should be added in this context that the revenues and expenditures shown in the budgets for the following two years are non-binding.

The state budget is an essential part of the general government budget and provides for the financing of the main functions of the state in a respective financial year. The state budget for a respective financial year includes revenues, expenditures and financial transactions on the state's financial assets and other transactions that influence the state's financial assets or financial liabilities. The state budget is approved by the National Council of the Slovak Republic through the State Budget Act in a special budgeting process, which is characterized by several differences compared to the standard legislative process, in particular: the exclusive right of the government to submit to the National Council the draft State Budget Act (the right of budgeting initiative); the existence of statutory deadlines for preparing and submitting the draft State Budget Act (by 15 October of a current year); the regular annual periodicity of the exercise of the right of budgeting initiative, which is associated with the limited period of force and effect of the State Budget Act—one calendar year; a legal solution to possible non-approval of the State Budget Act, which is a temporary budget; prohibition of amendments and repeals of other laws through the State Budget Act; setting objectives to be achieved (revenue and expenditure levels) in State Budget Act without specifying the procedures and means to achieve these objectives.

The state budget revenues include taxes, fees, fines, levies due to a breach of financial discipline, European Union budget funds, revenues from state holdings and other revenues.

The state budget expenditures mainly include expenditures of organizations financed from the state budget, expenditures resulting from international treaties, contributions to the European Union, expenditures on the delegated exercise of state administration to municipalities and higher territorial units, and expenditures on the state's obligations under special laws.

In the case of local self-government, municipalities and higher territorial units manage their own approved budgets. The budget of a municipality and the budget of a higher territorial unit is the basic instrument of financial management in a respective financial year which governs the financing of the tasks and functions of the municipality and the higher territorial unit in a respective financial year. The budget of a municipality and the budget of a higher territorial unit expresses the autonomy of their management. These budgets are approved by representative bodies and contain revenues and expenditures and financial relationships with the state (shared taxes, subsidies for the delegated exercise of state administration, other subsidies).

The revenues of the budgets of municipalities and higher territorial units include, in particular, shares in personal income tax, non-tax revenues from ownership and transfer of ownership of property, penalties for a breach of financial discipline, donations and proceeds from voluntary collections, subsidies from the state budget to cover the expenditures on the delegated exercise of state administration, other state subsidies, funds from the European Union, and other funds from abroad provided for a specific purpose.

An important means of strengthening the budgetary and financial autonomy of municipalities is local taxes, which were introduced in Slovakia in 2004, although their introduction was considered much earlier not only at the legislative level, but also at the expert level. The purpose and ultimate objective of the Fiscal Decentralization was to create instruments for municipalities, cities and higher territorial units enabling these local self-government units to raise, through legal instruments, sufficient funds for the performance of their statutory functions, as well as the fulfilment of societal tasks. In its original version, the Act on Local Taxes (2004) provided for eight local taxes that could be imposed by municipalities on an optional basis (real estate tax, dog tax, public space use tax, accommodation tax, tax on vending machines, tax on non-winning gaming machines, tax on nuclear installations, tax on the entry and stay of motor vehicles in the historical part of towns) and one local tax that could be imposed by higher territorial units (motor vehicle tax). That *status quo* lasted for ten years, when the legislator adopted the Motor Vehicle Tax Act (2014), under which this tax became a state tax again. In the case of local taxes (apart from tax on nuclear installations), municipalities themselves can influence their budget revenues by setting their rates, increases, decreases, or exemptions. Thus, municipalities themselves construct the elements of these taxes so that their primary fiscal purpose can be fulfilled, and they have considerably stronger powers than before to influence their revenues.

The adoption of the Constitutional Act on Budgetary Responsibility (2011) was a particularly significant moment for budget law in Slovakia. This constitutional act was adopted to achieve long-term sustainability of the Slovak Republic's economy and to strengthen the transparency and efficiency of the use of public funds. Its goal was also to promote the long-term competitiveness of Slovakia, considering the requirement of economic and social justice and solidarity between current and future generations. The Constitutional Act on Budgetary Responsibility provides the establishment and competences of the Council for Budget Responsibility, the rules of budgetary responsibility, and the rules of budgetary transparency. The Council for Budget Responsibility is an independent authority established to monitor and evaluate the development of Slovakia's economy and evaluate the implementation of the rules of budgetary responsibility. Its competences include publishing a report on the long-term sustainability of public finances, submitting a report on compliance with the budgetary responsibility and budgetary transparency rules to the National Council of the Slovak republic, publishing an opinion on legislative proposals, in particular in terms of their implications for the general government budget and long-term sustainability.

The most important provisions of the Constitutional Act on Budgetary Responsibility set an upper limit of the government debt in the amount of 50% of gross domestic product. The benchmark is the level of Slovakia's debt as published by Eurostat. The measures provided for by the Constitutional Act on Budgetary Responsibility are activated as soon as the debt level reaches 40%. Then, depending on the increase in

the debt level, increasingly stringent measures are activated to pursue the debt reduction target:

If the amount of the debt reaches 40% of gross domestic product and is below 43% of gross domestic product, the Ministry of Finance must send a written justification of the debt level to the National Council, including a proposal for debt reduction measures,

If the amount of the debt reaches 43% of gross domestic product and is below 45% of gross domestic product, the government must submit to the National Council a proposal for debt reduction measures, and the salaries of the members of the government must be reduced,

If the amount of the debt reaches 45% of gross domestic product and is below 47% of gross domestic product, the Ministry of Finance must block the state-budget expenditures in the amount of 3% of the total state-budget expenditures approved by the State Budget Act for the respective financial year, no funds may be released from the Prime Minister's Reserve and the government's Reserve, and the government may not submit to the National Council any general government budget proposal entailing an year-on-year increase in general government expenditures compared to the previous year,

If the amount of the debt reaches 47% of gross domestic product and is below 50% of gross domestic product, the government may not submit to the National Council any general government budget proposal with a deficit, and municipalities and higher territorial units are obliged to approve only a balanced budget or a surplus budget for the following financial year.

If the amount of the debt reaches or exceeds 50% of gross domestic product, the government must ask the National Council for a vote of confidence.

Effectivity of these provisions may be hampered by the clause of Constitutional Act on Budgetary Responsibility stating that the activation of restriction measures will not apply in the two years following the adoption of the government Policy Statement and the vote of confidence.

The constitutional regulation of budget law undoubtedly includes the issue of audit of the use of public budget funds. The Supreme Audit Office of the Slovak Republic (the 'SAO') is one of the constitutional authorities established by the constitution at the time of its adoption by the Slovak National Council on 1 September 1992. The anchoring of the SAO as an audit authority directly in the constitution was standard when compared to the constitutions of other democratic countries (which were also used as a basis for the drafting of the constitution), with the SAO being established as a 'new type' of audit authority. The establishment and constitutional fixation of the SAO as an independent authority standing outside the system of other state authorities was a manifestation of the effort to create a *sui generis* audit institution. The SAO was conceived to provide audit of the management of only state finances (at the time of the adoption of the constitution).

The development of the constitutional regulation of the SAO has recorded several changes, but the current situation has been in force since as early as 2006. The

constitution-maker has twice expanded competences of the SAO to give the SAO the broadest possible ‘scope’ of audit of all public finances and public property. Similarly broadly as in the Slovak Republic, the material and personal audit competences of the state financial audit authority is defined in the Republic of Poland. Under the current constitutional situation, the current scope of competences of the SAO (without claiming to be exhaustive) covers state finances (state budget, state funds, state enterprises), local self-government finances (municipalities and higher territorial units), other public finances on a national scale (public institutions such as the Social Insurance Agency, public higher education institutions), foreign, mainly European, finances (finances provided to the state, legal and natural persons within development programmes or for other similar reasons from abroad—currently, mainly finances from EU funds), mixed finances (legal entities with the participation of the state, public institutions, municipalities, and higher territorial units, as well as legal entities established by them), private finances (guaranteed by the Slovak Republic).

### ***3.5. Polish budgetary law***

The budget and budgetary management based on it are of crucial importance for the proper condition of public finance, and thus for the proper performance of financial management in the state. The very notion of a budget is multifaceted, as a budget can be considered as: a financial plan, a stock of public funds, streams of financial flows, a legal act producing legal effects and an act of political choice. The feature that distinguishes the public budget from other financial plans is its political and legal status. It finds its expression in the political and legal acceptance of the budget by the representative bodies (in the case of the state budget—the parliament, and in the case of local government budgets—by the bodies that constitute local government units).

The budget can thus be defined as an annual plan of income and expenditure, as well as revenues and expenditures of state authorities, bodies of control and protection of the law, courts and tribunals, and government administration, being an annex to the budgetary act adopted for the period of the calendar year called the budgetary year. In the same way, it serves to fulfil the tasks of local government units, for which it is an annual plan of revenues and expenditures, as well as revenues and expenditures.

The dynamic environment makes the developing market economy face ever-new challenges to economics and management. One of the fundamental issues that has a key impact on the functioning of market mechanisms is risk. Due to its interdisciplinary nature, the term ‘risk’ can be interpreted in different ways depending on the conditions in which it is analysed.

The issue of risk is crucial to the functioning of the public finance sector. The government’s budgetary policy is based on numerous assumptions and forecasts. ‘Assessing the functioning of the budget, one may conclude that it is a device similar to a suction and pump, i.e., it receives streams of income from some entities and transfers them to others.

The most acute problem in this area of public life is public debt. Public debt can be defined as the aggregate of budget deficits incurred in previous periods.

An unbalanced budget is the cause of a constantly indebted state. This problem is noticeable in many countries of the European Union, especially in the eurozone. Disproportionate expenses in relation to limited income make it necessary to issue treasury securities. Their interest rate is determined in a crucial way by the credibility of a given country in the international arena, the ratings of rating agencies and the general situation on financial markets. A very worrying phenomenon is the high cost of servicing public debt.

An effective fiscal policy should consider long-term consequences of actions taken today in the area of public finance. Implementation of the necessary reforms of public finance, which arouses social protests, will ensure a stable economic growth by limiting the risk of budget imbalance and reducing the level of public debt in relation to GDP.

Sovereign public debt has a significant impact on the economy. A persistent budget deficit can also directly affect the rate of economic growth, understood as an increase in the country's ability to produce goods and services to meet the specific needs of society.

### **3.6. Romanian budgetary law**

#### *3.6.1. Budgetary procedures*

Another efficient method of restricting the state in its financial activity is the obligation to operate within a budgetary framework. Art. 138 of the constitution sets the basic features of this procedure. It is important to differentiate between the financial and legal aspects of the budget, that is between the budget as a financial *modus operandi* and the law through which the budget is established. The constitutional text addressees both dimensions.

#### *3.6.2. Financial technique*

The references contained in the constitution to the national public budget are clear evidence of its firm implementation and mandatory character. Art. 138 is entitled, 'national public budget' and para. 1 regulates its basic structure, as a collection of autonomous, distinct budgets. Thus, the employment of a budget is not a mere recommendation or a vague political objective, but a constitutional obligation.

The state operating through a budget seems so ordinary that we can miss the true purpose of it, which is to discipline the entire public financial activity. As the financial document that determines public revenues and expenses for a year long, the national public budget is mainly a restrictive instrument. This restricting nature manifests itself at least in the following ways. (a) By ordering: All the public financial effort is envisioned and planned beforehand. The public action in this area is not chaotic and improvised, but is ordered, rationalized, disciplined by the budget's guidelines. The possibility for the public authority to act erratically,

randomly, unpredictably in financial matters would generate all kinds of abuse. (b) By provision: Through the budget, the state anticipates a level of revenues that is rationally needed and can be realistically obtained. This level is assumed, formally settled, and receives a certain stability, for it is not easy for the public authority to surpass this limit. The citizens receive thus the guarantee that the state will not extend indefinitely its financial claims. This aspect is also applicable to the public expenditures, specifically regulated by the budget, which generates important limitations for the public authorities, both in the level and the specific purpose for which they are allowed to use financial resources. (c) By correlation: The vital purpose of any budget is to make an essential correlation between the level of the expenses and of the revenues. This operates also as a restriction for the state, which is hindered to spend irresponsibly and is bound to be balanced in all its financial activity.

Besides consecrating the budget *per se*, the constitution also sets an important aspect of its structure. Art. 138 para. 1 states that ‘*The national public budget shall comprise the state budget, the state social security budget and the local budgets of communes, towns and counties*’. The national public budget is therefore an ensemble of budgets, distinctly drafted, approved, and carried out, but inserted and harmonized into a single document that can accurately display the true dimension of the public financial effort as well as the balanced or imbalanced character thereof.

### 3.6.3. Legislative procedure

As regards the most important budgets, the state budget and the social security budget, the constitution demands that they take the form of a law, adopted by the parliament. They must become legal documents, endowed with the juridical force of a law. Such a significant legal status attests the importance given to the financial aspects that they regulate. At the same time, the exclusive legislative competence of the parliament in this matter guarantees, as argued before, their fair, stable and competent character. As to the legislative procedure itself, art. 138 para. 2, 3 and 5 mention several specific elements. They concern the drafting phase and the approval phase of this procedure.

### 3.6.4. Drafting phase

Art. 138, para. 2, restricts to the government the possibility of legislative initiative: ‘*The Government shall annually draft the state budget and the state social security budget, which shall be submitted separately to Parliament for approval*’. The solution is normal, given the fact that the government has the responsibility to exercise the general management of the entire executive activity and to ensure the implementation of all domestic and foreign policies of the country. In addition, the government has in subordination the immense institutional structure able to proficiently draft these budgets. It is worth noticing that this text also consecrates the principle of annuality and imposes a separate submission of the drafts to the approval of the parliament.

Intricately connected with this provision is the final phrase of art. 111 para. 1:

The Government and the other bodies of public administration shall be obliged, within the parliamentary control over their activity, to present the information and documents requested by the Chamber of Deputies, the Senate, or parliamentary committees, through their respective presidents. In case a legislative initiative involves the amendment of the provisions of the state budget, or of the state social security budget, the request for information shall be compulsory.

Essentially, this text constrains the parliament to request the opinion of the government on every legislative initiative—coming from the deputies, senators, or citizens—that involves any modification of the budgetary laws. Thus, the government cannot be excluded from the legislative process, but has its essential role confirmed. The Constitutional Court has unravelled some of the more subtle implications of this text.

The participation of the government's representative at the parliamentary debate and his agreement with the proposed amendments is enough to fulfil this obligation. But the participation of some representatives of the Ministry of Finance at the sessions of the standing committees that have inserted the amendments does not satisfy the constitutional requirements.

The government has the correlative obligation to present the financial impact of the proposal on the general budget. For this purpose, the government has 45 days to transmit the financial statement to the parliament.

The fact that the government does not support the amendments or refuses to communicate the financial statement cannot block the legislative process and is not a reason for unconstitutionality. The information must be requested, but the opinion of the government is not mandatory for the parliament, who remains the sole legislative authority.

### 3.6.5. *Approval phase*

The fate of the budget laws is decided in the parliament, in a joint sitting of the two Chambers. Being considered ordinary laws, they must be passed with a simple majority of the present deputies and senators. If for some reason the parliament fails to adopt them, the constitution provides as an emergency solution the prolongation of the applicability of the previous budgets: *'If the law on the state budget and the law on the state social security budget fail to be passed by at least three days before the expiry of the budgetary year, the previous year's state budget and the state social security budget shall continue to be applied until the adoption of the new budgets'* (art. 138 para. 3). The solution is financially and technically questionable, its obvious purpose being to place a severe constraint on the parliament to pass the budget laws on time, before the beginning of the year in which they must be executed. However, if the parliament does not comply,



the solution must be implemented. The state just cannot operate its financial activities without a budget.

We must underline the freedom that the parliament has in adjusting the draft presented by the government, in establishing the final form of the budgetary laws and in adopting subsequent modifications. There is only one constitutional restriction in this respect, stipulated by art. 138 para. 5: *'No budget expenditure shall be approved unless its financing source has been established'*. This succinct provision has elicited an intense constitutional debate. What exactly does it mean to establish the financing source? The Constitutional Court was called to bring clarifications:

The financing source is the necessary revenue to incur the expenditure. The purpose of the constitutional restriction is to prevent the extremely negative social and economic consequences of establishing budgetary expenses without coverage.

The budget allocation (that is the expenditure) and the financing source must be established simultaneously. The financing source cannot be subsequently established (for instance, when the next budget is drafted).

It is not necessary to expressly indicate the financing source in the text of the law itself. The constitution requires the establishment of the financing source before the approval of an expenditure and not the explicit indication of that source in the content of the law. A recurrent and notorious phrase used by the Court is that 'the absence of an explicit specification of the financing source does not automatically imply the non-existence of the financing source.'

The establishment of the financing source and the sufficiency of the financial resources from the established source are two different aspects. The first is a constitutional imperative, the second is entirely a problem of political opportunity that concerns in essence the relations between the parliament and the government. If the government does not have sufficient financial resources, it can propose the necessary legislative modifications to secure them. In other words, the court is not competent to rule about the sufficient character of the established financial resources.

The financing source must nevertheless have an objective and effective character. It must be realistically able to cover the expenditure, in the context of the annual budgetary law. A mere formal or general indication is unconstitutional.

### **3.7. Slovenian budgetary regulations**

The Fiscal Rule Act (FRA) determines the manner and timeframe for the implementation of the principle of medium-term balance of revenues and expenditures of general government budgets without borrowing, criteria for determining exceptional circumstances in which medium-term balance may be deviated from. FRA also regulates the operation of the Fiscal Council as an independent and autonomous state body.

According to Article 3 FRA, revenues and expenditures of general government budgets are balanced (in the medium term without borrowing), if the structural balance of the general government sector in a given year is not lower than the minimum value set in a ratified international (EU) treaty governing stability, coordination and governance in economic and monetary union.

The medium-term balance is ensured by limiting the projected volume of general government expenditure upwards to the level that ensures such compliance.

### *3.7.1. Preparation and execution of the budget*

The preparation and execution of the budget of the RS and the municipal budgets, management of state and municipal property, state or municipal borrowing and guarantees, management of their debts, accounting and internal control of public finances and budget inspection is laid down by the Public Finance Act (PFA). PFA also lays down the rules applicable to the Health Insurance Institute of Slovenia and the Pension and Disability Insurance Institute of Slovenia, both in the compulsory part of insurance. In addition, rules are laid down for public funds, public institutes, and agencies in drawing up and submitting financial plans, managing cash, borrowing, guaranteeing, accounting, submitting annual reports and internal control of public finances, and budgetary inspections.

PFA also regulates borrowing and the granting of guarantees by public economic institutes, public companies, and other legal entities in which the state or municipality has a decisive influence on management. PFA also regulates the medium-term planning of fiscal policy and measures to ensure fiscal discipline and rules for the use of surpluses of institutional units of the general government sector.

Budget composition, peculiarities of their implementation, use of cohesion policy funds, assigned revenues and state revenues, volume of borrowing and guarantees of the state and public sector, the amount of the lump sum, the assumption of obligations and other issues related to the implementation of the budget, determines Act on the Execution of the Budgets (AEB). If the budget is not adopted by the first day on which it is to be implemented, the beneficiaries financed from the budget are, according to CS provisionally financed under the previous budget (Article 148 of the CS).

Keeping of business books and the preparation of annual reports for the budget and budget users and for legal entities under public law and legal entities under private law that do not keep business books based on the CA, is regulated by Accounting Act (AA).

The transparency of financial relations between state bodies and bodies of self-governing local communities and public undertakings and legal entities, sole proprietors, and private individuals, who carry out activities in the general interest based on an exclusive or special right or public authority is specially regulated by Transparency of Financial Relations and Separate Registration of Various Activities Act (TFRSRVA).

### *3.7.2. Municipal financing*

The financing of tasks within municipal competence is set in Municipal Financing Act. Article 6 of the MFA lays down own tax sources of a municipality (revenues of the municipal budget as real estate tax, tax on watercraft, real estate transfer tax, inheritance and gift tax, tax on winnings from classic games of chance and other tax. The municipality is entitled to revenues from taxes in accordance with the law governing individual taxes.

Also, revenues from self-contribution, fees, fines, concession fees, payments for local public services, environmental charges, and others are the sources of financing of a municipality. Revenues of the municipality are also revenues from the real and financial assets of the municipality, received donations and transfer revenues from the state budget and funds of the EU.

Borrowing of the municipality, municipal budget debt management, municipal guarantees and determination and financing of eligible consumption of municipalities is further precisely laid down by the MFA.

<b>Main characteristics of the budgetary rules</b>					
	Legal source	Budgetary regulations	Adopted by...	Special rules	External audit institution
Hungary	Act on budget	budget circle: planning, implementation, and control of the budget. important principles	National Assembly	Fiscal Council task: monitor compliance with government debt rule	State Audit Office
Croatia	Act on Budget, Act on Executing the Budget, Act on Budgetary Responsibility	Budgeting is geared to a cycle consisting of four usual phases: (1) preparation and design; (2) adoption and approval; (3) execution; (4) evaluation. The average duration of the cycle is 27 months. For the first and third phase executive authorities are responsible while in the second and fourth phase the parliament has the main role.  state revenues and expenditures are laid down by the budget	majority of all representatives of the Croatian Parliament ( <i>Sabor</i> )	Act on Budgetary Responsibility	State Audit Office
Czech Republic	state budget, state funds budgets and budgets of local governmental units	preparation, adoption, management, and control. important principles	Parliament (National Council of the Slovak Republic)		Supreme Audit Office

Main characteristics of the budgetary rules					
	Legal source	Budgetary regulations	Adopted by...	Special rules	External audit institution
Slovakia	the Act on Budgetary Rules of Public Administration, the Act on Budgetary Rules of Local Self-government, the State Budget Act, which is adopted every year	The central concept of budget law is the general government budget, which is a medium-term economic instrument of the state's financial policy. It is drawn up annually for at least three budget (calendar) years. The general government budget consists of the state budget and the aggregate of the budgets of other public administration entities (municipalities, higher territorial units, state funds, higher education institutions, the Social Insurance Agency, health insurance companies, and others), including revenues and expenditures related to the implementation of public health insurance for a respective financial year and the following two years.	Parliament	Constitutional Act on Budgetary Responsibility	Supreme Audit Office
Poland	budget, as financial plan, a stock of public funds, streams of financial flows, legal act	annual plan of income and expenditure, revenues	Parliament (Sejm)		Supreme Audit Office

Main characteristics of the budgetary rules					
	Legal source	Budgetary regulations	Adopted by...	Special rules	External audit institution
Romania	Art. 138. of the constitution sets the basic features of this procedure	the state budget and the social security budget, the constitution demands that they take the form of a law, adopted by the parliament	Parliament. in a joint sitting of the two Chambers. Being considered ordinary laws, they must be passed with a simple majority of the present deputies and senators.	If the law on the state budget and the law on the state social security budget fail to be passed by at least three days before the expiry of the budgetary year, the previous year's state budget and the state social security budget shall continue to be applied until the adoption of the new budgets'	State Audit Office
Serbia	Budget System Law, General Fiscal Rules		National Assembly		Country Audit Institution
Slovenia	Fiscal Rule Act	The preparation and execution of the budget of the RS and the municipal budgets, management of state and municipal property, state or municipal borrowing and guarantees, management of their debts, accounting and internal control of public finances and budget inspection is laid down by the Public Finance Act (PFA)	Parliament	If the budget is not adopted by the first day on which it is to be implemented, the beneficiaries financed from the budget are, according to CS provisionally financed under the previous budget	Court of Audit

We have found differences in the details of the regulation but similarities in the most important provisions. As we can see, the budget is passed into law in each country by national parliaments. Planning and implementing the budget is the governments' responsibility; nevertheless, their control is the task of national parliaments. Court audits exist in all countries. Local governments are financed from the central budget and are entitled to local revenues.

#### 4. Final thoughts

We can conclude that, as in the Hungarian Fundamental Law, the constitutions in the Central and Eastern European countries examined contain provisions on basic financial matters.

In each of the countries examined, the rules on budget planning, approval and implementation are regulated in detail. The planning is related to the government, the approval to the parliament (the Hungarian Parliament, the Croatian Parliament (*Sabor*), the Slovak National Council, the Serbian National Assembly, the Polish Sejm), the implementation is linked to the governments.

In all regulations, budget revenues and expenditures are presented in detail, which are the same in structure, revenues from taxes are typical, while on the expenditure side we find the financing of public tasks, as we have presented. An important principle in each country is that revenues and expenditures should be included in one budget.

In addition to the Hungarian Fundamental Law, the regulation on external public audits, i.e., the State Audit Office, is highlighted separately in Croatian Constitution (State Audit Office), in the Czech Constitution (Supreme Audit Office), the Slovak Constitution (Supreme Court of Auditors), the Romanian Constitution (State Audit Office) and the Serbian Constitution (National Audit Institute).

In addition to Hungary, the regulations on the Budget Council can only be found in the Slovak regulations, which do not work in the other countries examined. The Croatian Fiscal Policy Commission Policy has a similar task. The role of the Budget Council is determining so that the National Assembly can take a well-founded decision about the approval of the budget and therefore, to ensure its adoption, the opinion of a professional body that is independent from the executive branch is necessary. The contribution of the Council is essential in the procedure of the approval of the budget to comply with the government debt rule. The Budget Council is a body that supports the legislative activity of the National Assembly which examines the grounds of the central budget. The Council is involved in the drafting of the law on the central budget and its preliminary approval is required for the adoption of the law. Due to these rights, the Council has a significant effect on the compliance of the budget to the requirements of the Fundamental Law and it specifically monitors the compliance of the rules on government debt ratios. The president of the Budget Council, the president of the Hungarian National Bank and the president of the State

Audit Office are the members of the Council. The president of the republic appoints the president of the council for six years. The organization and the operation of the Council are regulated thoroughly in the Act on the Economic Stability of Hungary. In Slovakia the Constitutional Act on Budgetary Responsibility provides the establishment and competences of the Council for Budget Responsibility, the rules of budgetary responsibility, and the rules of budgetary transparency. The Council for Budget Responsibility is an independent authority established to monitor and evaluate the development of Slovakia's economy and evaluate the implementation of the rules of budgetary responsibility. Its competences include publishing a report on the long-term sustainability of public finances, submitting a report on compliance with the budgetary responsibility and budgetary transparency rules to the National Council of the Slovak republic, publishing an opinion on legislative proposals, particularly in terms of their implications for the general government budget and long-term sustainability. The Act on Fiscal Responsibility in Croatia provides the establishment and competences of the Fiscal Policy Commission. The Commission is an independent expert body established to envisage and evaluate the implementation of the fiscal rules. During the performance of its tasks, the Commission takes the 'positions' that are posted on the website of the Commission. A special procedure is prescribed in the case of serious fiscal risks. If the Commission assess that there is such a risk, it prepares a special report for the government who must give an opinion within 45 days or if it is necessary to undertake additional measures.

Besides the Hungarian regulations, the regulations concerning the State Treasury can be found in the Polish Constitution, and in other constitutions it is not regulated. In both countries, the implementation of the budget is its main task, as well as the related public audit tasks, but the Polish body also deals with asset management, while in Hungary the Hungarian National Trust performs this task.

The Hungarian Fundamental Law deals separately with the issue of public debt, as does the Constitution of Slovakia, while the Constitution of Serbia refers only briefly to it. In Croatia there is an Act about the fiscal responsibility. The provisions on the government debt rule are laid down in the Fundamental Law of Hungary. The essence of this rule is that the National Assembly must adopt such a budget law—to ensure sustainable public finances and responsibilities for the future generations—according to which the government debt may not exceed half of the gross domestic product, that is the optimal ratio of government debt set out by the Fundamental Law. Currently, however, the government debt significantly exceeds this level, therefore, the parliament must adopt such a budget law that intends to reduce this debt until the optimal ratio is reached. The most important provisions of the Slovakian Constitutional Act on Budgetary Responsibility set an upper limit of the government debt in the amount of 50% of gross domestic product. The benchmark is the level of Slovakia's debt as published by Eurostat. The measures provided for by the Constitutional Act on Budgetary Responsibility are activated as soon as the debt level reaches 40%. Serbia's Constitution states that public debt, i.e., the debt of the country and state bodies, is also a constitutional category in the field of public finances. The public debt rule is

very similar to the Slovenian golden rule, namely that the revenues and expenditure of general government should be balanced in the medium term without borrowing or that the revenues should exceed expenditure.

In 2011 Croatia adopted the abovementioned Act on Fiscal Responsibility. This act was adopted to achieve and maintain fiscal responsibility as well as to promote and strengthen the transparency and medium-term and long-term sustainability of public finances. In that context, the Act introduced fiscal rules concept, two groups of them. The first one tackles certain fiscal goals and limits in relation to the structural balance, annual growth of budgetary expenditures and public debt level. The second one deals with the concept of fiscal responsibility of the head of the budgetary (and extrabudgetary) users of the state budget and of budgets of local and regional self-government. The crucial instrument is a statement on fiscal responsibility by which the head confirms that they have ensured legal, earmarked, and purposeful use of funds, efficient and effective functioning of the internal control system within the framework of the funds determined in the budget, financial plan respectively. The obligation also includes companies owned by the Republic of Croatia or local and regional units as well as legal entities founded by the Republic of Croatia or subnational units.

The Constitutional Court's budgetary powers have been highlighted in Hungary, the Czech Republic, and Romania. The management of monetary policy is linked to the central bank, the national bank, for which, in addition to the Hungarian Fundamental Law, the Czech, Slovenian and Polish Constitutions contain provisions. The most important task is the issuance of money, but besides the classic central bank functions, it is a Hungarian specialty that the National Bank of Hungary also performs micro- and macroprudential functions, so it also acts as financial supervision.

All regulations include regulations on the finances of municipalities, the adoption and implementation of their budgets. In addition to the Hungarian Basic Law, the possibility of local taxation is highlighted by the Romanian and Serbian Constitutions, as described. In conclusion, it can be concluded that constitutional legislation is generally characteristic of the subject under consideration, although there are differences in the level of detail of the regulation. However, the detailed rules for the creation and implementation of the budget bear full resemblance to those presented.

In conclusion, it can be stated that the constitutional regulation is usually characteristic of the examined topic, although there are differences in the level of detail of the regulation. However, the detailed rules for drawing up and implementing the budget are fully similar to those presented.