

Professional Article

UDC 336.14

DOI 10.5937/skolbiz2-41027

ACCOUNTING AND LEGAL ASPECTS OF BUDGET EXECUTION

Milan Mihajlović*

Military Academy, University of Defense, Belgrade, Republic of Serbia

Radovan Damnjanović

Serbian General Staff, Ministry of Defense, Belgrade, Republic of Serbia

Aleksandar Savić

Military Technical Institute, Ministry of Defense, Belgrade, Republic of Serbia

Abstract: *The economic and legal dimension of the budget has always attracted the attention of researchers, both because of its dispositiveness and because of the once necessary stochasticity. This way of its existence and the conditions of its existence are precisely the subject of this paper. The indispensable efficiency of the public sector and its driving force in the conditions of modern existence of the social community and the assumptions that limit its activities complicate the position of the budget and its basic prerogatives as can be seen in all modern states, including ours. Legal constraints on the one hand and economic constraints on the other place the budget in a position that exists continuously, adjusting to the input side conditioned by budget revenues and the output side conditioned by budget expenditures. In this regard, respect for budget procedures and normative structure makes the budget extremely important for the study. In order to complete the budget procedure, after the budget year, the final account is made, which shows the accounting discrepancies and deviations of the execution by the executive from the budget approved by the legislature.*

Key words: *budget, principles, procedures, accounting system, public procurement, final account, control*

JEL classification: *H61, H72*

RAČUNOVODSTVENO-PRAVNI ASPEKTI IZVRŠENJA BUDŽETA

Sažetak: *Ekonomsko-pravna dimenzija budžeta oduvek je privlačila pažnju istraživača kako zbog njegove dispozitivnosti tako i zbog nekada neophodne stohastičnosti. Ovakav način njegovog egzistiranja i uslovi egzistiranja upravo predstavljaju predmet ovog rada. Neizostavna učinkovitost javnog sektora i njegova pokretačka snaga u uslovima savremenog egzistiranja društvene zajednice i pretpostavki koje ograničavanju njeno delovanje usložavaju položaj budžeta i njegovih osnovnih prerogativa kakvi se mogu videti u svim savremenim državama, pa i u našoj. Zakonska ograničenja na jednoj i ekonomska na drugoj postavljaju budžet u poziciju koja neprekidno egzistira prilagođavajući se ulaznoj strani uslovljenoj budžetskim prihodima i izlaznoj uslovljenoj budžetskim rashodima. S tim u vezi poštovanje budžetskih procedura i normativnog ustrojstva čini budžet izuzetnom značajnim za izučavanje. Kako bi se zaokružila budžetska procedura, nakon budžetske godine sačinjava se završni račun kojim se računovodstveno prikazuju slaganja i odstupanja izvršenja od strane izvršne vlasti od odobrenog budžeta od strane zakonodavne vlasti.*

Ključne reči: *budžet, principi, procedure, računovodstveni sistem, javne nabavke, završni račun, kontrola*

1. INTRODUCTION

Budget execution is an important activity in budget operations. There are two points of view to explain the execution of the budget. According to the first point of view, the execution of the budget implies only the spending of funds for specific purposes and needs, and according to the second, legal, the execution of the budget includes activities that are approved by the budget law. The executive authority is responsible for the execution of the budget, which also implies the legal use of the funds of the budget users, which makes the responsible authority of the budget user, i.e. public administration bodies, responsible. With regard to the functions they perform, the persons responsible for the execution of the budget are divided into ordering officers and accountants, and due to the specificity of the work they perform, these functions are separated from each other. The establishment of the budgetary procedure for execution is normatively legally regulated by the legal and by-laws of each state, which requires a complete system of consolidating funds and monitoring their spending. The conditions under which budget procedures are created usually depend on the political structure of the country, but also on the global economic position in which a country is located. International accounting associations have a dominant role in

creating budget procedures to establish a strong link between budgeting and financial reporting.

Budget reporting was based on the standards of the International Monetary Fund and the World Bank, but such a reporting principle proved to be insufficient for the needs of macroeconomic balances. The goal of this paper is to use the method of description to show the conditions of this type of reporting until the final account, as well as the principles of establishing budget execution control, which would round off the budget execution process in a unique way. The establishment of the legal environment of the budget system at the beginning of this century created the conditions for the economic achievements of market economies to be established in our country as a transitional economy, based on the principles of modern society.

2. BASIC PRINCIPLES IN USING BUDGET FUNDS

The legislator divided the persons responsible for budget execution into two units, namely, order clerks and accountants. By order, givers are meant persons from the state administration bodies, who, based on the law, are given the right to dispose of budget funds. Obligations cannot be created that exceed the planned budget funds for the year to which the budget refers. Also, the ordering party is obliged to take care of the timely and complete collection of income. The issue of public expenditures and spending of funds is strictly regulated. When the ordering party authorizes the payment, it is executed by the accountant, who, in addition to the aforementioned right and obligation, is responsible for the correctness of the preparation of the accounting documents available in the department for which he is responsible. He does not have the right to independently dispose of budget funds, but he has the right to control the expenditure of funds, documentation, etc. That is why it is incompatible that both functions are performed by one person, that he is jointly and severally responsible with the ordering party for all irregularities regarding the spending and use of budget funds.

When performing their functions, they are obliged to respect certain principles. The basic principles in the disposal of budget funds are: economy, legality, and purposeful disposal of funds (Raičević, 2005, p. 57), while some other principles apply to the disposal of funds in economic enterprises, such as: productivity, profitability, rationality, etc.

Under the *economic disposal* of funds, in the sense of the legal regulations that regulate the management, disposal, use and handling of funds, are considered: disposal of funds and such their use which, with the use and application of

scientific methods of organization, technology and technical and economic analysis of available or spent funds can achieve the most favorable results in the business of budgetary institutions (Atabaeva & Khojaev, 2020). It follows from the above that the essence of the principle of economy in the budget management system is the harmonization of two basic requirements:

- costs as low as possible and
- provision of institutions for the execution of specific tasks and protection of the rights of persons recognized by law and other regulations.

The economy in spending funds can be measured by the ratio:

$$E = \frac{\text{performance (effects)}}{\text{expenses}} \quad (1)$$

The effect of the budget system is not exact, it has no economic result and it is difficult to measure it precisely. Therefore, for budget users, the achieved performance should be considered the level reached in the execution of tasks that are the subject of their business. On the other hand, instead of expenses, the investment in the budget user is expressed by the expenses created.

The **legal disposal** of funds means the management, disposition and use of funds in accordance with the provisions of applicable legal and by-law regulations. Such a relationship with entrusted means, means the rule of law, denial of arbitrariness and accountability, for any action beyond the rights of those who have the authority or other public functions. The principle of legality in the budget management system basically includes the requirement for rational and economical use of funds, given that it is established and elaborated by law and by-laws. Any irrational and uneconomic disposal of funds is, therefore, illegal at the same time.

The **purposeful disposal** of budget funds is considered to be the management, disposal and use of funds only for the purposes prescribed by the Law on the Budget and other regulations and approved plans, unless those regulations and plans, in some cases, allow a change in the purpose of the funds.

3. BUDGET EXECUTION PROCEDURE

The government of each country is responsible for the implementation of the budget, and it fulfills its role through the Ministry of Finance. The Minister of Finance approves the dynamics of funds payments to budget users, from the consolidated account. The state treasury has its own consolidated account from which only those payments approved in the budget can be made. In the consolidated treasury account, budget users have their own sub-account where

they can "hold" funds received from the budget, or realized as own income. In this way, the record of the total available funds that are on the sub-account of the budget user is ensured and the prerequisites are created for the legal, economical, efficient and purposeful use of funds and the strengthening of financial discipline.

The most important approach here is the evenness of budget execution, which means that budget users receive funds throughout the year evenly and in a timely manner. It is precisely because of this fact that there are mandatory three-month budget execution plans, as an instrument by which the determined funds are distributed to the beneficiaries. In this way, budgetary inflows, which are realized in accordance with tax law regulations (Popović & Ilić-Popov, 2021), are reconciled with budget outflows. The obligation of all users of budget funds is to create obligations within the limits of approved funds for certain purposes, by the end of the year. During the year, the government can change the purpose in the amount of funds allocated in the budget. Funds determined in individual positions of the budget are transferred to the holders and users of those funds by a decision made by the Minister of Finance.

In order to organize the system, a list of budget users was established and thus clearly identified all those who take money from the state coffers. The Law on the Budget System[†] specified a unique budget classification that should ensure a unique presentation and comparability of data at all levels and with all carriers, creating prerequisites for data exchange within the framework of international cooperation. The unique budget classification includes:

- economic classification of income and expenditure;
- expenditures by users and functional purpose and
- classification of expenditures according to accounting funds.

The aforementioned standards, among other things, classify expenditures down to the smallest items and facilitate the control of the intended spending of funds. Also, with the aim of orderly and precise accounting, a unique Chart of Accounts for the budget system was published[‡], which is regularly updated and improved.

[†]Law on the Budget System ("Official Gazette of RS", no. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 - corrected, 108/2013, 142 /2014, 68/2015 - other laws, 103/2015, 99/2016, 113/2017, 95/2018, 31/2019, 72/2019, 149/2020 and 118/2021)

[‡]Rulebook on the standard classification framework and chart of accounts for the budget system ("Official Gazette of RS", no. 16/2016, 49/2016, 107/2016, 46/2017, 114/2017, 20/2018, 36/2018, 93 /2018, 104/2018, 14/2019, 33/2019, 68/2019, 84/2019, 151/2020, 19/2021, 66/2021 and 130/2021)

Analogous to the responsibility of the Minister of Finance for the execution of the budget, the commanding officers of the users of budget funds are responsible for the legal, purposeful, economical and efficient use and use of approved budget funds. The person who manages the body financed from the budget is the person who orders its execution. This is the person who is authorized to manage the entrusted property, take care of the collection of public revenues and decide on the distribution of financial resources for that year, based on the law on the budget. The commanders are usually the heads of individual ministries, i.e. government departments, as well as the persons to whom they transfer their powers.

Like any complex dynamic process, this one can encounter two problems: first, the volume and structure of consumption are greater than planned, and second, the dynamics of the inflow of budget funds do not correspond to the dynamics of the realization of physical activities, which is often the case in practice. Since in both cases the basic principles in the realization of the plans are significantly disturbed, in order to eliminate or mitigate the resulting disturbances, it is necessary to react in a timely manner and harmonize the plans. Data on the implementation of plans mainly come from the accounting department in the part that refers to the financial and natural indicators of the execution of the plan through the holders of the implementation of the programs and subprograms, to which funds were approved for execution.

Disagreements can be resolved in two ways (Chan, 1995): first, if the disturbance is the result of a lack of budget funds, the procedure for rebalancing is initiated, and second, if the disturbances are the result of unrealistic planning and it is certain that there are no budget funds, reconciliation is approached the need to determine priorities and change the approved funds by individual accounts of the economic classification of expenditures within the approved financial plan or, which is very rare in practice, the funds are redistributed between budget users.

The understanding that once a plan has been adopted must be carried out as planned, it is outdated and abandoned long ago, just as the thinking that the function of planning is unnecessary when the plan cannot be implemented anyway has been abandoned. Planning, directing, managing, and controlling the plan represents a great responsibility, especially in large systems, and above all in countries that face the impossibility of financing budgetary needs in relation to real needs and requirements (Dimitrijević, 2018).

The realization and direction of the financial plan should be understood as a continuation of the professional work on the adopted plan for which funds have been approved in the budget. Because of all this, it is necessary to entrust the

implementation of the plan to experts trained to react to all changes and their negative effects on other tasks.

Approved expenditures are carried out by creating and paying obligations, and approved revenues by realization and collection (Tam, Costa Moura, Oliveira & Varajão, 2020).

The *creation of obligations* is understood as the activities of authorized bodies, i.e. persons who, on the basis of approved funds in the annual expenditure and income plan for a specific purpose, conclude contracts on procurement, works and services, pass acts regulating the employment status of employed persons, pass other acts that result in the expenditure of institutions.

Creating obligations in excess of the amount of approved and allocated funds for any purpose is an illegal and unintended use of budget funds. All obligations are created by concluding a contract, as well as by passing other legal acts. Contracts for the procurement of goods and services or the performance of works are awarded according to a specific procedure in accordance with the provisions of the Law on Public Procurement and the Law on Obligations.

The contracting authority (competent authorities for contracting) is obliged to regulate contracting in accordance with the following principles:

- efficiency, which implies the implementation of the procedure with as few costs as possible related to the realization of the procurement;
- ensuring competition, which implies that the contracting authority cannot restrict any bidder by illegal means or unjustified use of restrictive procedures;
- transparency obligates the ordering party to advertise public procurement in one of the means of information: portal or website. This principle enables the bidder to view the data on the conducted procedure, which contributes to the public procurement procedure being consistent, comprehensible and transparent;
- provision of dedicated funds, according to which no call for public procurement can be started until the funds for that purpose have been previously approved and allocated in an amount that is sufficient to fulfill the resulting obligation;
- equality, which means that the contracting authority cannot determine conditions that would mean any kind of discrimination among bidders, but the obligation to maintain high standards of open and fair public bidding, with the highest level of professionalism and ethics.

Payment of obligations is made by issuing a payment order. A disbursement order is an accounting document that serves for the payment of obligations, deposited funds and other obligations. Payment orders are issued by authorized persons, based on bookkeeping documents on the resulting business change, which prove the created obligation and based on which business changes are recorded on funds.

As a rule, the payment of obligations is made after the purchase has been made. In exceptional cases, payment can be made in advance. Advance payments can be made in full or in installments. Partial payments in advance are made by giving: an advance, which is most often approved in order to ensure a more favorable procurement (lower prices, shorter delivery time, better quality, and other conditions) or an advance payment, which is approved for the payment of salaries and other monetary income and compensation travel and other expenses and for the payment of purchases that, according to the regulations on cash payments, can be made in that way. In construction, it is usual to give temporary payments for construction situations, which are approved for the acquisition and communal arrangement of construction land and the construction of apartments and other real estate.

Payment can be made in advance if the delivery of the funds is partially or fully conditioned by such payment and when the favorable effects realized by such payment, i.e. possible damages that would arise from this delay, are determined (Živkov, Poparić & Ilić, 2020). Obligations are paid in the manner and within the time limit provided in the document by which the obligation was created, that is, within the time limit provided by the contract or general act. Obligations from executive judgments and other executive acts are carried out as a matter of priority.

In addition to fiscal revenues, budgets also use non-fiscal revenues. They are most often treated through two categories, especially those that make up income from the sale and purchase of residential buildings, apartments, garages and business space in residential buildings, funds from returned loans and funds from rents, i.e. rents, as well as other income for financing.

On the other hand, we have revenues that are generated by providing services, leasing movable and immovable property (except residential real estate) and selling own products, the so-called own revenues. They are mostly general budget revenues, but there are also those that certain users of budget funds can use for their own financing, e.g. acquisition of movable property used for the realization of those revenues and for covering other expenses related to the realization of those revenues, and the rest of the income is used to finance expenses for which

the annual plan has not approved funds or has been approved in an insufficient amount.

4. THE ROLE OF PUBLIC PROCUREMENT IN BUDGET EXECUTION

Public procurement appears as a novelty in the budget system during budget execution. They appeared in developing countries at the beginning of the new millennium, and they found their legal basis in the application of the *Law on Public Procurement*[§] in making purchases for the needs of budget users. Making purchases, by applying the Law on Public Utilities, is a qualitatively more modern way of realizing purchases for the needs of budget users, except for some specific needs that are still procured according to special regulations.

The broadest concept of public procurement implies that, on the basis of a predetermined procedure and on the basis of several competitive offers, the most favorable offer is chosen. Public procurement must encourage competition among bidders and enable the contracting authority to purchase goods, works and services with the taxpayers' money under the most favorable conditions in terms of price, quality, etc. (Ismanov & Moydinov, 2020a) Procurement in this way has a positive effect on the development of the economy, because it encourages competition, contributes to the growth of employment, general economic development, and thus to the establishment of a higher level of living standards. Price theory as an economic discipline conditions the application of norms in this area, because legal assumptions are very often reflected in the opposite way in different market conditions, thus creating negative effects.

The assumption is that there is an open public procurement market, which means that it is available to bidders from different countries. It also represents the fulfillment of one of the basic principles of public procurement, i.e. principles of equality of bidders. As the rules on the procedures for the implementation of public procurement are becoming more uniform, public invitations are becoming universal and, with the development of modern information systems, available to an increasing number of bidders. By opening the market, monopolies and exclusive rights are broken.

The legal regulation of public procurement was a complete novelty in the legal and economic system of countries in transition at the beginning of the 20th century, while the regulation of that area on the international level began as early

[§]Law on Public Procurement ("Official Gazette of RS", No. 91/2019)

as the sixties of the last century. A large number of countries in transition (Czech Republic, Poland, Hungary, Slovenia, Slovakia, Lithuania, Bulgaria, Macedonia, Croatia, among them Serbia) have been applying and improving legal regulations on public procurement for almost two decades (Dimitrijević, 2016) and that way begins harmonization with European rules in this area. Some countries started it earlier and some later. The English term for public procurement is "public procurement" and refers to the procedure, i.e. the entire procurement system, and public procurement primarily determines the way in which the ordering party, which is the state in the broadest sense, obtains goods from the bidder (Ismanov & Moydinov, 2020b). The broadest concept of public procurement implies that they can, however, also be a tool of the state for the implementation of economic policy, regional development policy and social policy. Public procurement in the classic sector (goods, works and services) does not allow any national advantages.

In countries in transition, public sector consumption accounts for about 50% of the gross domestic product, and even after deducting expenditures for salaries, pensions and social assistance, a large part of public expenditures remains that are executed in the form of purchases made by the aforementioned contracting authorities. Certainly, the implementation of this Law, it has led to the fact that the contracting authorities act much more conscientiously and cautiously than before the adoption of the law. An opportunity has been created for numerous bidders, who until now remained without the right to award public procurement contracts, to get involved and get valuable jobs.

4. FINAL ACCOUNT AND BUDGET CONTROL

The final account represents the annual report on the implementation of the budget for the previous year, made on the appropriate accounting basis^{**}, which is applied by a certain state. The final account ends the budget year in terms of accounting, it is adopted in the assembly according to the procedure, as is done when the law on the budget is passed. After considering the final account, the parliament adopts the law, in principle and in detail.

The final account serves as an accounting basis for the implementation of parliamentary control (legislative authority), over the work of the executive authority in the implementation of the budget. The final account provides information about financial (Gogić, 2022) and other problems that arise in the

^{**}International Accounting Standards for the Public Sector (IPSAS)

<http://www.srrrs.org/?strana=ipsas>

functioning of state bodies and institutions and data that can be useful when adopting a new budget.

In order for the final account to objectively reflect the true state of budget finances, budget control is used (Najmiddin & Saidalohonovich, 2020). It represents checking, verifying and examining. It indicates a double accounting effect in order to avoid errors of abuse and the like. According to the levels of implementation, control can be: hierarchical, which represents the relationship between higher authorities and their individual bodies in the system of centralization, and tutelary, which represents the relationship between higher authorities and decentralized bodies. When defining the concept of control, the authors particularly point to the fact that control is a permanent activity of systematically evaluating someone else's work. Each control has at least two entities: 1) an active entity, which exercises control and has certain rights and powers, 2) a passive entity, over which control is exercised and which has obligations and duties in relation to the entity that exercises control. The goal of control is to check and evaluate the results of the work of the passive entity over which control is performed, to examine whether the controlled entity achieves the goals set for it. In addition, the control includes checking the way of working of the controlled entity, ie. whether he acts in the prescribed manner or in some other manner. The control process consists of three parts: planning, organization and realization. In the planning process, goals and means of achievement are defined. The control process measures the degree of progress, reveals deviations from the plan and suggests collective action measures. The control must meet certain criteria (Kostić, 2020). Above all, it must be efficient and objective, it must be performed with minimal costs, and it must include all parameters that significantly affect the business process. The characteristics of control are reflected in the observance of the following principles:

- The *principle of truthfulness* requires the performance of control based on reliable information;
- The *principle of timeliness* requires the timely collection, classification and evaluation of information so that the action undertaken leads to the elimination of deviations;
- The *principle of objectivity* requires objectivity and comprehensiveness and comprehensibility of the control and information obtained from the performed control;
- The *principle of economy* requires the economic justification of control. The costs of implementing the control system must be lower than the benefits that the control system brings;

- The *principle of flexibility*, requires a flexible setting of control and enables quick response to changes. The control system must be aimed at those actions that most effectively eliminate deviations.

In order to ensure the execution of the budget in the way it was planned and adopted by the legislative authority (parliament-assembly), control and audit of the execution of the budget is organized in all modern states (Majstorović, 2008, p. 16). Budget control is carried out in the budget execution process, in order to cover all budget execution authorities and all stages through which public revenue funds pass. The implementation of the control itself depends on (Jovanović & Đurović-Todorović, 2003): the time of execution, the authority that performs the control and the content of the control.

According to the time of execution, budget control can be preliminary or preventive and subsequent control. *Prior control* practically prevents illegal payment from the budget, because it precedes any payment of funds from the budget. Payment against the budget can be made when the competent authorities approve the payment from the budget after controlling the payment documentation. Prior control is carried out by the financial service authorities of the direct users of budget funds and the accounting service of the Treasury. *Subsequent control* is carried out after the payment from the budget has been made, it does not prevent the illegal disposal of funds, but if irregularities are detected, it enables punishment (repression) of the perpetrators of damage and submission of claims for compensation. This type of control is most often applied to users of budget funds and is performed by the budget inspection, which by law has the authority to control the intended use of budget funds, i.e. public revenues.

According to the authorities that perform control, budget control can be administrative, accounting-judicial and political control. *Administrative control* is based on a hierarchical basis, because the highest authority of state administration controls subordinate authorities. The highest administrative authority for budget control is the Ministry of Finance, which controls the direct users of budget funds. And this control can be previous and subsequent. *Audit and judicial control* is performed by bodies that are completely separate and independent from the government and other state administration bodies. Most often, it is an organ within the Central Bank. *Political control* is exercised by the representative body (parliament), which approves the budget and has the right to control the execution of the budget. This control is also called parliamentary, representative or parliamentary budget control. It belongs to the subsequent control, because as a rule it is carried out during the consideration of the final budget account, where in addition to the control of the legality of the execution of the budget, the expediency, that is, the social justification in the spending of budget funds, is also assessed.

Today's existence of budget control would be unimaginable without audit (Cipek & Ljutić, 2021), i.e. the State Audit Institution, which by its existence enables the use of budget funds to be viewed beyond control itself. ††

The importance of controls on the quality of the final account, and thus on the very process of implementation of the budget law for a specific budget year can be seen from the above, and if sometimes the control itself can appear on the side of legality but not on the side of efficiency, better known as Bismarck's budget (Todorović, 1933, p.174).

6. CONCLUSION

In the available literature, the budget is mentioned more and more often as an instrument by which states direct the course of social progress, citing a number of reasons that are the basis for its creation. In this connection, through research, we pointed out the basic principles of sustainability of planning and realization of budget funds, as well as the needs of its control.

Facing the problem of normative-legal nature on the one hand and effectiveness on the other, it can be said that the tasks of the budget as a dispositive do not always have to be found on the side of effectiveness, and therefore parliamentary control of the budget is very important in order to bring them into connection through the quotation of the final account findings of budget control and effects produced by the use of budget funds.

We have witnessed that facts from history are often forgotten when it comes to budget execution, in this connection it is necessary to mention that the reasons for which there used to be a discrepancy between the normative structure and the effectiveness of the use of funds still occur today. Knowledge of the very process of planning and realization of the budget for science is a breakthrough because normative acts of a different character as well as economic factors that condition their implementation in practice are connected in a comprehensive way.

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Delivered: 07.11.2022.

Accepted: 23.12.2022.