

ACTA POLITOLOGICA

www.acpo.cz



INTERNETOVÝ RECENZOVANÝ ČASOPIS

2012 | Vol. 4 | No. 1 | ISSN 1803-8220

GILLES, William. (2012). The Financial Good Governance in Europe: What Possibilities for Local Authorities? *Acta Politologica* 4, 1, 98-106. ISSN 1803-8220.

Tento článek podléhá autorským právům, kopírování a využívání jeho obsahu bez řádného odkazování na něj je považováno za plagiátorství a podléhá sankcím dle platné legislativy.

Internetový recenzovaný časopis vydává
Fakulta sociálních věd Univerzity Karlovy v Praze,
Katedra politologie Institutu politologických studií

The Financial Good Governance in Europe: What Possibilities for Local Authorities?

William Gilles¹

Abstract:

The financial good governance is a current and common topic for all local authorities in Europe, especially in a crisis context but not only. However, because European States rest on a variety of administrative organization and on a diversity of the conception of local autonomy, we cannot say that there is a common pattern of financial good governance for local authorities in Europe. Indeed, according to countries, local authorities can have more or less powers depending on the model of autonomy (fiscal, budget or management autonomy). If their margins of maneuvers can depend on the nature of resources that are allocated to them, real financial possibilities also exist for local authorities whatever the model is, since the financial good governance can be reinforced through the rationalization of local policies, thanks to the digital revolution and through the financial innovation.

Keywords: *Fiscal autonomy, budget autonomy, management autonomy, public finance, local authorities*

1. Introduction

All European local authorities are confronted to the issue of good governance. In this context, the financial autonomy is an essential aspect of good governance. The financial autonomy implies to endow local authorities a real financial power.

The autonomy of local authorities should suppose that they have sufficient financial resources to be able to lead their local policies. For this reason, local authorities must have a sound budget. On the one hand, they have to fight against all constraints that are likely to limit their possibilities of financing. In particular, it is necessary to ascertain the absence of auto-kept deficit, what implies to have a sustainable debt. On the other hand, local councilors must enjoy a real power of financial decision. However, concerning this subject, the aim is not only to drive away bad expenses. It is also necessary to optimize expenses of local authorities and their revenues as well. Therefore, the good financial governance consists in leading the necessary actions to allow local authorities to benefit from an efficient financial autonomy. The whole local councilors should try to reach this goal whether their local authorities are financed by their own resources or by subsidies according to the

¹ Docteur of Law and associate Professor at the University of Paris 1 Panthéon-Sorbonne, William Gilles is the Director of the Bachelor of Public Administration and the Director of the Master of Digital Law (Public sector and Firms). He also holds the Presidency of the the Institut du Monde et du Développement (IMODEV) (World and Development Institute) and is Editor-in-chief of the RIMD (IMODEV academic Review). Moreover he worked as a lawyer at the French Constitutionnal Council. He belongs to the Sorbonne Law Research Institute (IRJS). He is a member of the Observatory on Local Autonomy in Europe (OLA) and the Groupement de recherches sur l'administration locale en Europe (GRALE).

retained autonomy model in their country. Nevertheless nowadays local authorities have to face a difficult situation for their financing: the crisis of public finances and the rarefaction of public receipts (and therefore local receipts) is a main and common problem in Europe. Therefore financial good governance is necessary to reinforce financial autonomy.

Moreover, local authorities in Europe have more and more power. Financial good governance can also be analyzed as the counterpart of the local autonomy. Consequently it is not surprising to discuss about the necessity for local authorities to develop financial good governance.

This transformation incites to raise two questionings from the angle of the comparative law within the European Union. The first one is related to the margins of maneuver of local authorities regarding the financial good governance. The second one is linked to the policies that can be developed by local authorities to reinforce their financial good governance.

This article deals with these two sides. Through this approach, the aim is to try to define the substance of the local good governance.

2. The Margins of Maneuver of Local Authorities regarding the Financial Good Governance: the Absence of a European model

Margins of maneuver are different according to local European systems. Indeed, because they have more autonomy, some local authorities will have more margins of manoeuver than others.

2. 1 First of all, margins of maneuver depend on the conception of local autonomy

Dealing with the margins of manoeuver of local authorities lead us to distinguish several points of view as regards financial local autonomy. Three conceptions of this notion can be highlighted.

The first one is the *management autonomy* (like in England²). According to this sense, local autonomy means that local authorities have sufficient own resources to exercise their competences. In this case, the local financial good governance will be appreciated only through the point of view of the liberty to use resources. In other words, the financial good governance means in this context that local authorities should manage at the best their resources.

A second conception of local autonomy is specifically focused on the *budget autonomy* (like in France³). Compared to the previous one, this meaning represents a larger

² About the transformation of the british administrative system and the diminution of the local autonomy in recent years, see R. Le Mestre (2011). *L'administration territoriale britannique: du Local government à la Local governance. Revue du droit public et de la science politique en France et à l'étranger*, No. 1.

³ According to the article 72-2 of the French Constitution of October 4, 1958, "*territorial communities shall enjoy revenue of which they may dispose freely in the conditions determined by statute. [They may receive all or part of the proceeds of taxes of all kinds. They may be authorized by statute to determine the basis of assessment and the rates thereof, within the limits set by such statutes.]Tax revenue and other own revenue of territorial communities shall, for each category of territorial community, represent a decisive share of their revenue. The conditions for the implementation of this rule shall be determined by an Institutional Act.]Whenever powers are transferred between central government and the territorial communities, revenue equivalent to that given over to the exercise of those powers shall also be transferred. Whenever the effect of newly created or extended powers is to increase the expenditure to be borne by territorial communities, revenue as*

conception of the financial autonomy. The budget autonomy refers not only to management autonomy but also to the possibility for local authorities to implement some of their powers. More precisely, the budget autonomy empowers local authorities not only to decide in part of the vote of local taxes but also to finance themselves thanks to other local resources, and in particular loans⁴. However, it is important to note that their financial autonomy can be limited by the central State by several ways⁵. These limits specifically result from the constraints of the compulsory expenses and the framing of the tax power of local authorities.

Finally, *fiscal autonomy* (like in Spain⁶ or Italy) is the third conception of local autonomy. This side constitutes the largest conception of the financial autonomy. This meaning refers not only to management autonomy but also to a real power in tax policy.

Of course, margins of maneuvers are more significant for local authorities that can benefit from a fiscal autonomy than for local authorities who can only implement management autonomy.

For local authorities that can enjoy budget autonomy and fiscal autonomy, the financial good governance implies, as for the management autonomy, to manage at the best their resources. But as budget autonomy and fiscal autonomy ensure a largest conception of the local autonomy, it also means in this case that local authorities should adopt an adequate policy for financing their activities. In other words, because the level of receipts depends on them, local authorities should try to implement strategies to optimize their financing policies.

2. 2 Secondly, because European States rest on a different administrative organization, we cannot say that there is a common pattern of Financial Good Governance for Local Authorities in Europe

It is well-known that two main forms of State exist with a specific administrative organization. We distinguish on the one hand federal States (Germany, Belgium, and Austria) and unitary States on the other hand. Among unitary States, a distinction has to be done as regard administrative organization. Indeed, local governments have not the same powers in autonomic State (Spain), in regional State (Italy), in decentralized States (France, Czech Republic), and in State more deconcentrated than decentralized (England). Obviously, the difference of the administrative organization has an impact on the margins of maneuver of local authorities for the implementation of financial good practices and as a result for financial good governance.

determined by statute shall be allocated to said communities (...).

⁴ See W. Gilles (2010). *Réflexions sur l'autonomie financière des collectivités territoriales au regard des réformes de la fiscalité locale. Pouvoirs locaux*, No. 87.

⁵ See Ph. Laurent (2010). *Les libertés réduites par les deux bouts! Pouvoirs locaux*, No. 87; E. Portal (2010). *Quelles conséquences de l'amointrissement de l'autonomie financière et de l'autonomie fiscale locale. Pouvoirs locaux*, No. 87.

⁶ According to the article 143 of the Spanish Constitution of December 27, 1978, "in the exercise of the right to self-government recognized in Article 2 of the Constitution, bordering provinces with common historic, cultural and economic characteristics, island territories and provinces with historic regional status may accede to self-government and form Autonomous Communities in accord with the provisions contained in this Title and in the respective Statutes." For an illustration, see for in instance E. Alberti (2007). *Le nouveau statut d'autonomie de la Catalogne. Revue française d'administration publique*, No. 1.

Local authorities have to respect obligations imposed by central governments. These constraints are more or less significant according to the administrative organization and can have a real impact on the implementation of the financial good governance. It can be surprising but constraints are more substantial in an autonomic State like Spain or in a regional State like Italy than in a federal State like Germany. England is certainly the country where local authorities have to face the heaviest constraints, and therefore local autonomy is less substantial.

It is important to underline that most of the time the constraints concerning local authorities have been adopted to favor the financial good governance. In this case, the good governance is imposed to local authorities. Unfortunately, these constraints can also limit the local autonomy.

For example, in the case of federal State, federalism especially results in a precise distribution of competences between the federal State and the federate States. But in the German case, the distribution of financial competences puts Länder at a disadvantage. Under such circumstances, Länder will not be authorized to adopt a budget with structural deficits from 2020⁷.

Furthermore in the case of unitary State like in France, local authorities have the obligation to present a budget really balanced. They cannot borrow to finance operating expenses but only to finance investment expenses. Local authorities have the obligation to finance compulsory expenses. These expenses are numerous and keep on growing up. This situation is the consequence of the central government policy who has decided to transfer new competences to local authorities.

The case of England is also interesting. The Local Government Act of 1999 brought in the notion of “Best Value” that imposes to the deliberating assemblies of local authorities to guarantee economy, effectiveness and efficiency for their public services. The obligation of efficiency (and therefore good governance) in this situation is imposed directly by the central government. Local authorities cannot escape from this perspective. Indeed, this last decade, the British parliament led an operation of privatization of some local enterprises whose local authorities were owners in the domain of public transportation or social lodging because they think that these services will be better managed by the private sector. In the same way, public services remaining to the area of competence of local authorities have the obligation to respect indicators of performance⁸. And yet these indicators of performance are not fixed by local authorities but by the State himself! And if local authorities do not reach these indicators, the British State can withdraw to them the management of this public service. Local authorities have also to respect a global ceiling of expenses. In case of failure, the British State can reduce the subsidies allocated to them.

The situation of local authorities in England and especially as regards relationships between the State level and the local level shows that the research of good practices through effectiveness or efficiency for example can limit local autonomy. This point of view has to be highlighted when analyzing the local financial good governance.

⁷ According to the Basic Law for the Federal Republic of Germany.

⁸ See R. Le Mestre, *op. cit.*

2.3 Thirdly: margins of maneuver for good governance can depend on the nature of resources that are allocated to local authorities

Obviously, when resources directly depend on local authorities, the margins for local authority to develop good practices are the greatest. For instance, local authorities that are financed by shared taxes (Czech Republic, Poland, Germany, Austria, Belgium, Spain, Italy, Denmark...) can be less involved in the optimization of their financing than those who are financed thanks to non-shared taxes. In the same way, local authorities that are mainly financed by subsidies can be less inclined to develop good practices than those who have to manage to develop their own resources.

However, it is important to underline two aspects as regards the margins for local good governance resources that are allocated to local authorities. On the one hand, the central government can use subsidies to impose local authorities a policy of effectiveness and efficiency (remember the previous example of England). On the other hand, global subsidies procure more autonomy than affected subsidies since the remittance of these ones is conditioned by the nature of the project that will be financed. In the same way, affected subsidies can be inclusive or proportional. In this last case, subsidies will partly depend on the own expenses of the local authorities. Therefore, it favors good management of the project because local authorities are involved in the financing of the project.

In other words, financial good governance supposes to give responsibility to local authorities. But as it was previously highlighted, when resources directly depend on local authorities, the margins for local authorities to develop good practices are the greatest. For better (as it has been previously noticed), but sometimes also for worse. Indeed, risks of bad practices are also the most important.

This viewpoint can be illustrated with the example of the active debt management by local authorities in France. French local authorities are competent to borrow. In order to optimize their loan, they have developed this last decade an practices of active debt management. It means that they try to borrow with the lowest interest rate. But some of them had badly managed their debt and became subprime borrowers⁹. It was especially the situation of the city of Saint-Etienne and the department of Seine-Saint-Denis. On the contrary, the city of Lyon well managed its loans. This city has decided to reduce its loan cost by indexing the interest rates of its debt on the oil quote. Consequently, in case of increase of the oil price, the increase of the energy bill of the city of Lyon is compensated with a decreased of the cost of the local debt.

Although local autonomy and consequently local financial good governance can be limited for the reasons that have been analyzed, local authorities have also possibilities to implement best practices in this field.

3. Real possibilities for Local Authorities to reinforce their Financial Good Governance

Local authorities can develop several good practices to reinforce the financial good gover-

⁹ W. Gilles (2010), Местные органы власти во Франции в условиях финансового и экономического Кризиса (Les collectivités territoriales françaises à l'épreuve de la crise économique et financière), *ЭКОНОМИЧЕСКИЕ СТРАТЕГИИ Economic Strategies Journal* (Revue scientifique de l'Institut pour la Stratégie Économique de l'Académie des Sciences de la Fédération de Russie (RAS), décembre 2010.

nance. No matter what the model of local autonomy is, policies of financial good governance could be developed by all local authorities in Europe.

3. 1 The reinforcement of the Financial Good Governance through the rationalization of local policies

A first step of reinforcing the financial good governance can rely in the rationalization of local policies. Of course, rationalizing local policies suppose first to introduce change in management of local authorities. In other words, they should give up policies of means in order to implement policies of results, and therefore to develop management control practices, at internal or external level. The objective is not to reduce expenses while suppressing public services or public investments but the aim is rather to maintain them while financing them at a least cost.

Most of the time, this policy of rationalization has a good effect on the management of local authorities because it generate new receipts in order to master local budget or to finance new public services. This aspect can be explained by the example of Drancy in France. The mayor of this city has financed the free access to school canteens thanks to the mutualisation of public services. Thanks to this rationalization of public services the City of Drancy could support the cost of the free access to school canteens¹⁰.

But this policy of rationalization can also have bad consequences. Several examples contribute to underline this aspect of the local financial governance. Indeed, it has been previously noticed that in England and in Country-of-Wales the Local Government Act of 1999 introduced the notion of “Best value”. It means that in case of failure, the central State can withdraw public services to local authorities or diminish some subsidies. We can also remember that in France, local authorities can lead an active management of their debt but some local authorities became “subprime borrowers”.

Moreover the case of the non-administrative units in Republic Czech is a typical example of the bad consequences that sometimes result from the rationalization of public policies. As it is known, the mobilization of structural funds supposes to respect a demographic threshold fixed by the Nomenclature of Territorial Units for Statistics (NUTS).

According to the European Law¹¹, “if for a given level of NUTS no administrative units of a suitable scale exist in a Member State, in accordance with the size criteria referred to in paragraph 2, this NUTS level shall be constituted by aggregating an appropriate number of existing smaller administrative units. This aggregation shall take geographical, socio-economic, historical, cultural and / or other relevant criteria into consideration. The resulting aggregated units shall hereinafter be referred to as «non-administrative units». The size of the non-administrative units in a Member State for a given NUTS level shall lie within the population thresholds referred to in paragraph 2”.

Consequently during its period of pre-accession to the European Union, Czech republic had to create the “non-administrative units” regrouping several of its regions to reach the critical size of “region NUTTS II” in order to benefit from structural funds since its

¹⁰ See I. Bouhadana, W. Gilles (2009). La gratuité des cantines scolaires à Drancy: un modèle précurseur de financement des services publics ?, entretien avec J.-C. Lagarde, Député-Maire de Drancy. *Revue Française de Finances Publiques*, No. 107.

¹¹ Regulation (EC) No 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS). *Official Journal* L 154, 21/06/2003 P. 0001 - 0041.

adherence in 2004. In other words, these non-administrative units are artificial regional. They subsist in the present programming 2007-2013.

The Czech example helps to understand that in this case, the rationalization was imposed, at least indirectly, by the European Union. It can generate the creation of “artificial region”¹². We can really wonder if it is the best way to reach local financial good governance. Probably not. Furthermore the reinforcement of local financial good governance can also be encouraged by the advances made in technology.

3. 2 The reinforcement of the Financial Good Governance thanks to the digital revolution

Local authorities can develop their means and optimize their management thanks to information and communications technologies (ICT) as the private sector does. Even if it is not yet the most developed practice in the public sector, local authorities could have a real interest to use the instruments of the digital revolution to reduce the cost of their financing. In this field, technical tools are numerous but it is enough to take one or two typical examples to understand the new approach of the financial good governance due to digital practices.

The first example can be highlighted through the *predictive analysis*¹³. Several local authorities (like the city of New-York in the United States, the cities of Clermont-Ferrand or Rennes in France) use the predictive analysis to rationalize their public management and improve their local policies. The predictive analysis consists in anticipating the future needs and to measure their impact on the environment while taking into account the evolution of the contexts (change of legislation, demographic and economic evolution).

This process is implemented by crossing historical data to a systemic analysis of public policies. Then, the information obtained allows, for example, knowing the evolution on the next ten years of the inhabitants of a region by age in order to determine what is the best place to build a regional railway network and so to optimize the inhabitants travels, traffic and transit within the region.

The predictive analysis also makes possible to rationalize the management of public employees working for local authorities according to departures to retirement. In other words, the predictive analysis favors the effectiveness and the efficiency of the staff management for the new decade. Therefore this tool allows local authorities to make choices for more than a year. However, the predictive analysis remains a tool that can be helpful to take decisions. It obviously cannot be used to substitute itself to the political decision.

A second example of the reinforcement of the financial good governance through the advances made in technology can be underlined by the use and the development of the *open data*. This policy consists in making accessible the public data that are centralized by governments (central government or local authorities). Local authorities that are the most dynamic are, in the United States, the cities of New-York and San Francisco, in Canada, the cities of Toronto and Vancouver, in the United Kingdom, the city of London, in Italy, the region of Piedmont, in Spain, the region of Catalonia, and now in France, the cities of Paris and Rennes.

Thanks to the open data policy, citizens, economic actors or researchers can produce services that they estimate useful. The open data policy can help citizens in several

¹² This problem is an issue in other countries (like in Romania or Estonia) that had acceded to the European Union and that had to create “artificial regions” in order to benefit structural funds.

¹³ As regards this topic, see J. Gaydu (2011). *Réflexions sur l'utilisation de l'analyse prédictive pour l'administration des collectivités territoriales. Revue de l'Institut du Monde et du Développement (RIMD)*, No. 1.

ways. Thanks to it they can for example access to an interactive cartography of the places accessible to disabled people or they can know the availability in real time of the bicycles in self-service (city of Rennes). They can also get a map about biodiversity data (city of Montpellier, France) or a map on the facts of criminality by district (city of New-York). In the department of Isère in France, "Itinisphere" platform¹⁴ may also inform people about the exploitation of the networks truck driver and the public transportation. By the way, it can be noticed that Isère has become in 2011 the first French department to implement the open data policy. This practice is being developed since the Region of Île-de-France would like to develop an open data policy in years to come.

Moreover, several studies showed the positive impact of the open data policy on the optimization of the public expense, and therefore the financial good governance. Several examples in different countries confirm this analysis.

In Denmark, the liberalization of the public data generated a direct profit for the society of 62 million of euros for the period 2005-2009 and 14 millions of euros in 2010 against a cost of 200 000 euros for this same year¹⁵.

In the same way, in Catalonia (Spain), an evaluation of the impact of the open data policy was realized on the regional level. A survey achieved on Catalonia on the period 2002-2006 shows that if the opening of the public data generated a cost of about 283 000 euros per year, this investment is weak compared to the achieved savings (2.6 million of euros per year)¹⁶. Otherwise, the open data had a meaningful impact notably on the policies of the region concerning fundamental, architectural planning or infrastructures of transportation network. Several laws have been adopted to protect better the environment or to promote the right in a worthy and adequate lodging.

3. 3 The reinforcement of the Financial Good Governance through the Financial Innovation

A last possibility for local authorities to reinforce the good financial governance, and it will be my conclusion, consist in developing practices or strategies of financial innovation.

It means that local authorities have to manage to find new resources because traditional receipts are not sufficient nowadays, in the international context of rarefaction of resources and financial crisis of public finance. This process can consist in developing partnerships with the private sector, developing royalties. It consists also in wondering how taxes can be adapted, at the best, to local policies and to local environment. It supposes therefore to take into account the specificity of each territory and also to give more responsibility to local authority.

But the topic of financial innovation is a significant schedule by itself. That is why it needs to be more deeply analyzed and developed in another article dedicated to the subject. However it has to be shortly evoked here since it is becoming an important aspect of the financial good governance in the world.

¹⁴ See <<http://www.itinisphere.fr>>.

¹⁵ See M. Lind (2010). The value of providing Danish address data free of charge, 12 juillet 2010, Danish Enterprise and Construction Authority (DECA).

¹⁶ See G. Almirall; M. Moix Bergadà; P. Queraltó Ros; M. Craglia (2008). The Socio-Economic Impact of the Spatial Data Infrastructure of Catalonia, *Official Publications of the European Communities*..

LIST OF REFERENCES:

Regulation (EC) n° 1059/2003 of the European Parliament and of the Council of 26 May 2003 on the establishment of a common classification of territorial units for statistics (NUTS). *Official Journal L 154, 21/06/2003 P. 0001-0041.*

Basic Law for the Federal Republic of Germany.

French Constitution of October 4, 1958.

Spanish Constitution of December 27, 1978.

ALBERTI, E. (2007). Le nouveau statut d'autonomie de la Catalogne. *Revue française d'administration publique*, No. 1.

ALMIRALL, G.; MOIX BERGADÀ, M.; QUERALTÓ ROS, P.; CRAGLIA, M. (2008). *The Socio-Economic Impact of the Spatial Data Infrastructure of Catalonia*, Official Publications of the European Communities.

BOUHADANA, I. ; GILLES, W. (2009). La gratuité des cantines scolaires à Drancy: un modèle précurseur de financement des services publics?, entretien avec J.-C. Lagarde, Député-Maire de Drancy. *Revue Française de Finances Publiques*, No. 107.

GAYDU, J. (2011). Réflexions sur l'utilisation de l'analyse prédictive pour l'administration des collectivités territoriales. *Revue de l'Institut du Monde et du Développement (RIMD)*, No. 1.

GILLES, W. (2010). Réflexions sur l'autonomie financière des collectivités territoriales au regard des réformes de la fiscalité locale. *Pouvoirs locaux*, No. 87.

GILLES, W. (2010). Местные органы власти во Франции в условиях финансового и экономического Кризиса" (Les collectivités territoriales françaises à l'épreuve de la crise économique et financière). *ЭКОНОМИЧЕСКИЕ СТРАТЕГИИ Economic Strategies Journal* (Revue scientifique de l'Institut pour la Stratégie Économique de l'Académie des Sciences de la Fédération de Russie (RAS), décembre 2010.

LAURENT, Ph. (2010). Les libertés réduites par les deux bouts! *Pouvoirs locaux*, No. 87.

Le MESTRE, R. (2011). L'administration territoriale britannique: du Local government à la Local governance. *Revue du droit public et de la science politique en France et à l'étranger*, No. 1.

LIND, M. (2010). *The value of providing Danish address data free of charge*, 12 juillet 2010, Danish Enterprise and Construction Authority (DECA).

PORTAL, E. (2010). Quelles conséquences de l'amointrissement de l'autonomie financière et de l'autonomie fiscale locale. *Pouvoirs locaux*, No. 87.