

Tributes imposed on tourists as a new-old source of local governments income

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Abstract

The growth in a number of tourists and, consequently, a larger income obtained from tourism by the state led to the situation when the previously marginalized tributes imposed on tourists by local governments have assumed greater significance. Additional revenues to local units' budgets, gained from the above-mentioned tributes, are often allotted for better infrastructure and tourist promotion, thereby contributing to the increased tourist competitiveness. The present paper discusses the construction of levies imposed on tourists by local governments in various European states. Besides, the issues of how local governments can influence the construction of the tax within the frames of the granted tax autonomy are examined. Due to the fact that in many European countries burdens imposed on tourists by local units can be called taxes, fees or other levies, the term „tribute”, as a broader one including all statutory charges, is intentionally used in the present paper.

Keywords: tax; fee; tribute; tourist; European states

JEL Classification: K34

1. Introductory remarks

Towards the end of the 1920s, José Ortega y Gasset, describing the phenomenon of agglomeration with the use of the phenomenon of plenitude, stated i.a. that towns were full of people, hotels full of guests, trains full of passengers, cafés full of consumers, while beaches were full of bathers. Already at that time the Spanish essayist and philosopher asserted that what had not posed any problem previously, namely the finding of place for oneself, at his contemporary times began to be a source of perennial troubles². However, he did not expect that the phenomenon he was describing would even intensify after over 80 years. This can be observed, in particular, as far as tourism is concerned. Everyone who travelled the world before the last decade of the 20th century can safely say that at that time comfort of being a tourist was on a higher level than nowadays. Such a state of affairs is due to a change in the behaviour of Western societies for whom consumption has become an immanent feature, manifesting itself not so much by travelling throughout the world as the compulsion to travel. This is confirmed by statistical data, from which it results that in EU Member States there was a

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² J. Ortega y Gasset, *Bunt mas*, Muza, Warszawa 2004, p. 8.

significant growth in income from tourism between the years 2004 and 2012, in spite of the recent economic crisis. In some countries such as Poland, Sweden or Finland, income from tourism doubled. On the other hand, in the Republic of Croatia, Malta and Cyprus receipts from tourism make respectively 15.5%, 14.4% and 11.4% of share in the gross domestic product³. It should be stressed that a rise in the number of tourists is connected not only with an increase in incomes received by the budget of the state or local government units (e.g. regions, municipalities), but it also entails a quicker wear and tear of infrastructure intended for the local community and can lead to greater pollution of the natural environment. Consequently, the fact that more and more often tourists are burdened with a public tribute by a public-law entity results, on the one hand, from the temptation to gain additional income going towards the budget of the state or a municipality (in less frequent cases that of a region), on the other hand from the necessity to obtain partial compensation for wear and tear of infrastructure and possible deterioration of the condition of the environment. Besides, income from public tributes imposed on tourists who visit a locality can be allotted for its promotion and investments in infrastructure which serves tourists. Undoubtedly, various forms of public tributes paid by tourists are yet to be made full use of by local government units such as municipalities or regions. In countries where tributes of this kind exist, they should not only play an essential role in supplementing income of local government units but also be an effective instrument with which a municipality or a region can fully consciously influence tourist traffic within its territory, focusing on a specific type of a tourist, and thereby strongly affecting the condition of local economy. Such a situation will be possible only if the state creates an adequate legal framework which guarantees that local government units carry out their own tax policy as part of the autonomy they have been granted. The aim of this paper is to present, basing on experiences of the chosen European states, some possible legal solutions as concerns burdening tourists with public tributes (taxes, fees and levies) collected by local government units. Yet, the author has mostly focused on a public tribute which burdens the so-called tourists on account of their staying within a given locality.

2. Construction of tributes levied on tourists

Both the title of the present paper and this subchapter concern tributes imposed upon tourists. The notion of a tribute has been intentionally used in the present paper because fiscal burdens on tourists have different names in legislatures of various countries. Depending upon the state, there is either a tax (e.g. in Italy, Spain - Catalonia)⁴ or a fee (Poland, Czech Republic, France and

³ http://epp.eurostat.ec.europa.eu/statistics_explained/images/6/62/Travel_receipts_and_expenditure_in_balance_of_payments%2C_2004%E2%80%9312_YB14.png; access: 1.11.2014.

⁴ In Italy there is a tourist tax (*imposta di soggiorno*), whereas - in Catalonia - tax on stays in tourism establishments (*impuesto sobre las estancias en establecimientos turísticos*).

Luxembourg)⁵. However, the emphasis should be placed on the fact that the very name does not determine a character of a tribute imposed on the so-called tourists. From a theoretical point of view such a tribute should be called a tax as there is no equivalence, i.e. a feature perceived as characteristic of a fee. Passive subjects in this case do not get an individualized mutual consideration in return for paying a tribute⁶ which is charged for the mere fact of staying for some time in a given locality. Also, the notion of the so-called "tourist" needs explanation. A tourist, even if in the light of the binding legal regulations of a given country is not a passive subject obligated to pay a tribute, will always have to carry its real burden. According to the dictionary definition, a "tourist" means a person who is travelling or visiting a place for pleasure⁷. Such a person is moving from one place to another, usually going beyond his place of permanent residence. While analysing legal regulations of European countries which charge tourists with a public tribute, it should be pointed out that the subjective scope of a tribute, as a rule, is similar. First of all, an entity obliged to pay a tribute can be an individual or a legal person providing third parties (who are *de facto* real payers of a tribute shifted onto them through its inclusion in the price of accommodation) with temporary accommodation services. Such regulations are in force *inter alia* in the Czech Republic in the case of an urban fee for accommodation (*místní poplatek z ubytovací kapacity*)⁸ and in France as regards a lump sum tourist fee (*taxe de séjour forfaitaire*)⁹. Secondly, an individual visiting a locality or staying within its territory can be a passive subject. As a rule, even if not expressed directly in legal regulations, the idea behind the discussed tributes is that the passive subject should be an individual who is not a resident in a given locality¹⁰. The above-mentioned solution can bring practical problems, though, because it is not always justified to impose the public tribute in question on each person who fulfils the criterion of not being a resident. This results from the fact that there can be various motives for going beyond one's place of permanent residence. Apart from purely recreational trips, individuals can visit certain localities in order to improve their health in

⁵ For example in Poland there is a visitors' fee (*opłata miejscowa*) or a health resort fee (*opłata uzdrowskowa*), in the Czech Republic a fee for spa or recreational stay (*místní poplatek za lázeňský nebo rekreační pobyt*) and an urban fee for accommodation (*místní poplatek z ubytovací kapacity*), whereas in France and in Luxembourg a tourist fee (*Taxe de séjour*).

⁶ See: C. de la Martinière, *Droit fiscal général*, Flammarion, Paris 2012, pp. 21-22; G. de Luca, *Diritto tributario*, Edizioni Simone, Napoli 2012, pp. 22-23; J. Casalta Nabais, *Diritto fiscal*, Almedina, Coimbra 2012, pp. 45-51; V. Babčák, *Slovenské daňové právo*, EPOS, Bratislava 2012, pp. 21-32; W. Wójtowicz, *Pojęcie i charakter podatku jako dochodu publicznego*, [in:] P. Smoleń, W. Wójtowicz (ed.), *Prawo podatkowe*, C.H. Beck, Warszawa 2014, pp. 7-9.

⁷ *Oxford Advanced Learner's Dictionary*, Oxford University Press, Oxford 2000.

⁸ See: V. Pelc, *Místní poplatky. Praktická příručka pro obce*, C.H. Beck, Praha 2013, pp. 88-89.

⁹ Article L2333-41 and Article L2333-41-1 Code général des collectivités territoriales (Version consolidée au 15 octobre 2014).

¹⁰ In Italy, the act of local law which stipulates the rules for collecting tourists tax within the municipality of Venice directly includes a regulation which exempts officially registered residents of Venice from this tax. See: Article 4 paragraph 1 letter a Regolamento dell'imposta di soggiorno nella Città di Venezia Allegato alla deliberazione commissario straordinario, n. 64 del 1/08/2014.

sanatoriums, undergo specific healing or rehabilitation treatments, participate in trainings enhancing their professional qualifications or receive education in public schools or institutions of higher education.

The above problems can be solved in two ways. The first of them consists in determining, in a legal act, a subjective-objective scope of a tribute which will be binding exclusively in localities boasting special features and imposed on those who have arrived there with a clearly specified aim. A health resort fee can serve as an example here because it can be charged only in places which have been granted the status of a health resort. In such a case the subjective scope can be narrowed exclusively to the subjects staying in a locality for medical reasons. Yet, it can be broader determined and then the duty to pay a fee or a tax will rest with each individual staying in the locality which was granted the status of a health resort not only for health reasons but also for tourism, leisure or education. In this case it is crucial for charging a tribute whether a given locality has been qualified as a category of a health resort. The above-mentioned regulations are in operation e.g. in Poland, where municipalities with health resorts are authorized to impose a health resort fee (*opłata uzdrowiskowa*) exclusively on those entities which stay there longer than 24 hours¹¹. The second way consists in an accurate determination of the catalogue of subjective exemptions. In the states levying a tribute on tourists various criteria are applied on the basis of which certain groups of individuals are exempted from the duty to pay it. In this case one can distinguish exemptions that take the following factors into consideration: one's age, state of health, position at work or the fact of exercising a certain profession. Also people receiving education can be entitled to exemptions. As regards a preference which takes account of age, a tendency to exempt children, sometimes youths or the elderly can be observed. In some countries the group of the exempted include those who are under 3 years of age (France), 7 years (Slovenia), 12 years (Croatia), 18 years (Czech Republic) or are either over 65 (Italy: Rimini) or 70 years old (Czech Republic). The issue of an individual's state of health plays a significant role while granting exemption. In this case the group of people most frequently exempted are the blind together with their guides (e.g. Poland, Czech Republic, Republic of Croatia), those who stay in hospitals (i.a. Poland, Czech Republic, Slovenia, Italy: Milan, Florence, Rome), and people with the adjudicated level of disability (e.g. Slovenia, France¹²). In some countries also people close to a hospital patient and assisting him enjoy this preference. For instance in Venice this regards parents of a sick person. Exemption from tributes burdening the so-called tourists can result from the position one holds or a profession one practices. An example here can be provided by Italian towns such as Rimini and Venice where drivers of trip coaches do not pay a tourist tax¹³.

¹¹ M. Burzec, *Opłaty lokalne*, [in:] P. Smoleń, W. Wójtowicz (ed.), *Prawo podatkowe*, C. H. Beck, Warszawa 2014, p. 585.

¹² E.g. in France those who went blind, deaf or suffered an irreversible damage to health as a result of hostilities are exempted from paying a tax.

¹³ Article 4 paragraph 1 letter g Regolamento dell'imposta di soggiorno nella Città di Venezia Allegato alla deliberazione commissario straordinario n. 64 del 1/08/2014.

Additionally, in Venice a tourist tax is not collected from volunteers who perform work for the sake of the municipality, province or the region. In Poland members of diplomatic representations and consular offices are subject to exemption from a visitor's fee and a health resort fee on the principle of reciprocity. In the Republic of Croatia a tourist tax is not levied on seasonal workers employed within a given municipality in the tourist sector. In Slovenia a similar exemption is applied to people working and living temporarily for over 30 days in a catering facility. The last group of preferences regards people acquiring education. In this case two categories of the entitled subjects can be distinguished. The first one includes organized groups of school-age children and youths on camps, summer camps or trips (e.g. in Poland, Croatia, or Slovenia). The second group, on the other hand, embraces students. E.g. students in Bologna and Florence are exempted from a tourist tax on condition that they get education exclusively at local universities¹⁴. In Milan students under the age of 26 years who stay e.g. in boarding houses or residence halls enjoy tax exemption¹⁵.

It should be stressed that a separate group comprises subjects who, in spite of not being residents of a locality, have a stronger connection with it in comparison to people listed above on account of a real property they possess there. They can own a recreational plot of land, a holiday house or an apartment used during weekends, winter or summer holidays. In this case three kinds of solutions can be adopted. The first of them consists in exempting property tax payers for owning a holiday house from a tribute imposed on tourists. Such a situation occurs e.g. in Poland¹⁶. The second solution assumes that preferences are contingent upon the character of purchasing real estate. Such a solution is offered in Croatia where the owner of an original old family home, acquired by inheritance from a person with permanent residence in the tourist settlement¹⁷, and his next of kin are exempted from a sojourn tax. The third solution consists in exempting people staying in apartments or summer houses from a tax if their stay exceeds a specified number of days. For instance in Milan such a stay must be longer than 14 days in order to be subject to exemption¹⁸.

It is worth pointing out that a tribute charging the so-called tourists is levied, as a rule, when they stay in a given locality using accommodation services. The fact of staying in a hotel, boarding house, motel, tourist apartment, vacation resort, sanatorium, bed and breakfast or an agrotourism farm against payment is the

¹⁴ Article 5 paragraph 1 letter e Regolamento sull'imposta di soggiorno nella Città di Firenze, n. 230/33 del 20/06/2011 (modificato dalla delibera n. 21/2012 e dalla delibera n. 50 del 28 luglio 2014) and Article 2 paragraph 3 Regolamento dell'imposta di soggiorno nel Comune di Bologna, n. 1675/2012 (con modificazioni).

¹⁵ Article 5 paragraph 1 letter g Regolamento dell'imposta comunale di soggiorno nella Città di Milano, n 19, dell'11 giugno 2012 e successive modificazioni ed integrazioni.

¹⁶ Article 17 paragraph 2 point 4 ustawa z dnia 12 stycznia 1991 r. o podatkach i opłatach lokalnych.

¹⁷ Article 3 of the Sojourn Tax Act from 15 December 2008. See: <http://www.mvep.hr/zakoni/pdf/835.pdf>; access: 1.11.2014

¹⁸ Article 5 paragraph 1 letter e Regolamento dell'imposta comunale di soggiorno nella Città di Milano, n 19, dell'11 giugno 2012 e successive modificazioni ed integrazioni.

most common basis for collecting this tribute. Nevertheless, it sometimes happens that tributes are imposed for staying overnight in a room for rent, camping site or a youth hostel. Moreover, in localities with an access to the sea a tribute can be levied in the event of an overnight stay in a yacht moored in a port of nautical tourism.

A tribute levied on tourists can be a rate expressed either as a percentage or an amount. The former is applied i.a. in Luxembourg and comes to 3% of the sum specified in an invoice for accommodation. The rate expressed as a percentage is levied also in Romania and equals 1% of the price of an accommodation¹⁹. The latter kind of a tribute, i.e. expressed as an amount of money, is charged much more often. It can be fixed but more frequently it depends on many factors. A category of an accommodation facility constitutes the most common criterion determining the amount of a tribute. By and large, the higher the category, the higher the rate. The said amount can also be diversified in respect of a locality where a tribute is charged. Moreover, it must be stressed that in relation to the amount of a tribute a relief can be applied. For example in Croatia the rate of a sojourn tax is lowered by 50% in the case of youths aged between 12 and 18 years. In Milan the basic rates are reduced by 50% if the stay is in August, i.e. the time of the least tourist traffic in this city. Some countries such as Slovenia, laying down the rules for determining the height of a tribute in an indirect manner (multiplying a relevant factor by a rate expressed as an amount) can lead to differentiating it so that the longer a ship or a yacht moored in a marina, the bigger a tribute²⁰.

3. Tax autonomy and tributes levied on tourism

Tax autonomy is nothing different than the assertion of the local units' autonomy which they have within the scope of their own taxes. The exercise of this autonomy can have various aspects. The broadest tax autonomy is enjoyed by units which can decide whether to introduce new fiscal burdens within their territory or eliminate tributes deemed unnecessary from the point of view of the conducted policy (e.g. those producing negative social and economic effects or whose collection is too expensive). However, it cannot be passed over that the granting of the broadest tax autonomy is strongly limited because in this case a local government unit becomes a rival to the state for tax revenues. A natural thing is that a local government unit will always have a much weaker position in relation to the state. Furthermore, such a scope of autonomy is not always possible in the case of tributes imposed on tourists because in few countries decisions about placing new fiscal burdens are taken at the level of a region. Meanwhile, the tributes discussed in the present paper are, as a rule, collected by units which belong to the lowest level of local government unit, i.e. a municipality. Nonetheless, it is worth

¹⁹ M. S. Minea, C. F. Coștaș, *Dreptul finanțelor publice. Volumul II. Drept fiscal*, Bucharest 2013, p. 368.

²⁰ Article 25 paragraph 2 Zakon o spodbujanju razvoja turizma z dne 19. decembra 2003. See: <http://www.uradni-list.si/1/content?id=46633>; access: 1.11.2014.

mentioning that in Spain autonomous communities and local corporations are vested with the right to impose and collect taxes under the Constitution unless it is contrary to its provisions and to the acts²¹. On this basis one of the Spanish regions (Catalonia) levied the Catalan Government tax on tourists²². Revenues from this tax go to the Tourism Development Fund which allots the raised financial means i.a. for the promotion of tourism in Catalonia; the development, creation and improvement of tourism products and the protection, conservation, recovery and improvement of tourism resources. Tax collection, supervision and management are provided by the Catalan Tax Agency (Agència Tributària de Catalunya)²³.

In the case of local governments, tax autonomy can consist in pursuing a defined policy on a proper formation of changeable elements of a tax or a fee (determination of rates, exemptions and application of reliefs which reduce the tax base or the amount of a tax or a fee). Literature on the subject distinguishes several categories of tax autonomy. It is assumed that units which have full freedom in determining tax rates and tax preferences enjoy the greatest autonomy²⁴. It should be underlined that in the overwhelming majority of states which impose a tribute on tourists, an act, so a legal document issued by the parliament, is a legal basis for this imposition. Not until it comes into effect can competent municipal bodies form changeable elements of the tribute stipulated in the act. In the light of the above, it should be stated that these are Italian municipalities that have the greatest autonomy. They have complete freedom in making a decision about the introduction of a tourist tax within their territory, differentiating the height of tax rates as well as introducing reliefs and exemptions. This is because an act is a legal basis²⁵ which regulates that decision-making bodies of towns which are provincial capitals, municipal associations or municipalities qualified as tourist towns or towns of art can, by way of resolution, decide about introducing a tourist tax within their territory, paid by people staying in the facilities located in the municipality. It was also pointed out that the rates of a tourist tax expressed as an amount, which cannot be higher than 5 Euro, should be differentiated by a municipal council considering accommodation costs paid by a tourist in a given facility. Besides the act stipulates that revenues which a municipality receives from a tax should be allotted to investments in tourism, i.a. conservation and restoration of cultural heritage. Polish municipalities enjoy a slightly smaller scope of autonomy. It is obligatory to impose a visitor's fee (*opłata miejscowa*) and a health resort fee

²¹ Article 133 paragraphs 1 and 2 of the Spanish Constitution of 27 December 1978.

²² Ley 5/2012, de 20 de marzo, de medidas fiscales, financieras y administrativas y de creación del impuesto sobre las estancias ed establecimientos turísticos.

²³ For the Catalan Tax Agency see more in: J. Pagès i Galtés, *El sistema de financiación autonómica en el estatuto catalán de 2006*, [in:] A. M. Pita Grandal, *La financiación autonómica en los Estatutos de Autonomía*, Marcial Pons, Madrid 2008, pp. 61-66.

²⁴ H. Blöchliger, *Tax Assignment and Tax Autonomy in OECD countries*, [in:] N. Bosch, J. M. Durán, *Fiscal Federalism and Political Decentralisation. Lessons from Spain, Germany and Canada*, Edward Elgar Publishing Ltd., Cheltenham-Northampton 2008, pp. 58-64.

²⁵ Decreto Legislativo 14 marzo 2011, n. 23, Disposizioni in materia di federalismo Fiscale Municipale.

(*opłata uzdrowiskowa*) in localities which fulfil the defined criteria. Municipalities have liberty in determining the height of a fee but, similarly as in Italy, it cannot exceed the maximum amount stipulated under the act. Furthermore, Polish law provides for a possibility of giving exemptions other than those listed in the act, by way of resolution adopted by a municipal council. On the other hand, municipalities in France have smaller autonomy in forming changeable elements. A municipal council there, apart from determining the height of a tribute, which cannot be lower than 0.2 Euro and higher than 1.5 Euro, may pass a resolution on introducing an exemption in two cases strictly specified in the act²⁶. If a municipal council does not decide to approve such a resolution, only obligatory exemptions applied pursuant to the provisions of the act will be legally binding within the territory of a municipality. The smallest autonomy is enjoyed by Czech municipalities which are authorized to collect fees imposed on tourists. They can only establish the amount of a fee up to the maximum amount determined in the act and decide about the date of collecting a fee (every week, every month or, alternatively, as an annual lump sum)²⁷.

4. Conclusion

It seems that in the context of the development of tourism and a steady increase in the number of visitors, tributes imposed upon tourists can play, if adequate proportions are kept, an ever larger role. Municipalities which have been given the right to levy this kind of a tribute within their territory will exercise it without scruple. The imposition of the above-mentioned tribute is tempting inasmuch as residents (potential electors) are not obliged to pay it but these are tourist who, while choosing a place of holiday, are usually guided by other aspects than the amount of a tourist tax or fee. It is worth emphasizing that the desire to ensure the possibly highest revenues from collecting tributes imposed on tourists by municipalities was effectively limited by a statutory determination of the maximum volume of tributes. This situation also concerns, but to a lesser extent, tributes which are expressed as percentage rates.

Analysing legal regulations on tourist taxes or fees, the tendency to determine the aim of their imposition should be noted. Nowadays many states which have this kind of a tribute stipulate in the act that thus generated income should be allocated for developing and promoting tourism, rebuilding infrastructure or restoring cultural heritage. Such a situation exists in Italy, Spain, Croatia and France. On the other hand, there are also countries (e.g. the Czech Republic or Poland) where the aim of collecting obligatory fees has not been defined.

An assertion can be risked that the greater autonomy granted to units of local government in forming the construction elements of a tribute, the greater the sense of this kind of a public tribute in the state's tax system. This is due to the fact

²⁶ See Article L2333-34 Code général des collectivités territoriales.

²⁷ *It is a subject running a facility where tourists are staying that is obliged to pay a fee. See more: M. Radvan, Místní daně, Wolters Kluwer, Praha 2012, pp. 70-71.*

that municipalities often anticipate a particular type of tourists. Consequently, the possibility of forming the construction elements can become part of the municipal promotion policy, conveying a clear message to the target group of an offer.

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