Concept of Public Finance in Economic and Legal Doctrines in the Russian Federation and Other Countries

Elena Valeryevna Ryabova

Lomonosov Moscow State University, RUSSIAN FEDERATION
Higher School of Public Audit, Moscow

Abstract

Understanding of public finance as a sphere of social relationships by scholars is not single. It develops depending on increasing role of a state government. In Russia public finance is still understood as a set of economic relations aimed at generation and spending of public funds. This concept of public finance reflects in the current legislature. For example, according to the Russian Federation Budgeting Code, a budget is a form of generation and spending of money aimed at funding of functions and goals of a government unit. The mentioned concept of public finance reflects in the RF Tax Code, too. But in the Anglo-Saxon legal and economic doctrine public finance is understood as a sphere of social relations for resource allocation on a par with private finance. And taxes aren’t considered as payments for government services.

Keywords: public finance, public finance law, taxation, government budget, tax law, budgeting law.

1. Introduction

Public finance is an issue that often becomes the subject-matter of both legal and economic researches. Public finance is a sphere of relations covering all levels of public government, including national, regional (state, subnational, maybe sub-federal in a federal state) and local levels. Despite the fact that this category has been analyzed for a long time in the history of economic and legal doctrines, a concept and a scope of public finance may be different. This means that public finance may be understood in different ways. In this case we keep in mind, not only the definition of public finance in articles, essays, textbooks and other researches or academic papers, but an exact reflection of relevant understanding of public finance in law.

This paper primarily highlights the scope of public finance in Russia, determined by the peculiar understanding of this category by the Russian scholars. As Musgrave (2008) pointed out, public finance should implement three basic functions – allocation, equity in distribution and stabilization. For the critical analysis of the contemporary concept of public finance in Russia, we will rely on the three branch model of public finance by Musgraves.

The hypotheses of the research are the following:

(1) The understanding of public finance is different in each country, so, it is not a homogeneous category with a single meaning;
(2) The imminent features of a notion of public finance are its three aforementioned functions by Musgraves. The main goal of the fiscal policy is to combine all three functions avoiding the prevalence of one function over the others;

(3) The understanding of public finance (a concept of public finance) in a state, is reflected in the national law of the state. In Russia, the understanding of public finance is different from the concept of public finance in many developed countries.

2. A scope of public finance in the Russian doctrine

Tarasov (1889) noted, the origin of the word “finance” is not fully known, sometimes the word is derived from *finare*, *finiri*, sometimes from the medieval word *finatio* or *finantia*, the latter means a financial obligation, sometimes from Saxon word *fine* (Tarasov pointed out that fine means a penalty or a tax in English, but nowadays fine does not mean a tax¹), sometimes from the French adjective *fin*, sometimes from *finis* meaning a monetary penalty.

The category “finance” is not a legal category, but often used by the legislator. In Russia, this category has a sustained meaning and is understood as a complex of relationships about accumulation of resources and their spending. The financial relations are based on funds, and these characteristics differentiate the financial relations from monetary relations. Finances are divided into public finance and private finance. Public finance realizes the public interest, whereas private finance realizes the private interest.

But, finance is not always understood as relationships. Zapolskiy (2008) considers finance, not as relationships, but as the results of intellectual activity. The author writes, “relationships mediating this activity have a managerial character (legislative, law enforcement, jurisdictional), and they are not material relations”. In such a way, Zapolskiy distinguishes “finance” and ‘financial relationships”.

The understanding of finance and the meaning of term “finance” in the Russian doctrine in the period before 1917, were studied by the contemporary scholars Gadjiev (2007), Tropskaya (2012), Palozyan (2016). The analysis of treatises of the Russian scholars before 1917, i.e. in the pre-revolutionary period, shows that the authors defined the subject-matter of the science of public finance or public finance law, but not the scope of public finance itself. Such authors as Yanjul (1899), Tarasov (1889), Lebedev (1882), and Berendts (1914) did not define the concept of public, or state, finance. They explained, about what their treatises were, and what subject-matter of the science of public finance was, but didn’t attempt to explain the essence of public finance. The Russian scholars of that period focused on the foreign doctrine of public finance, and followed the manner of research presentation by French, German, and English scholars. For example, the same approach was used by the English scholar of public finance Bastable (1903). He wrote, “[f]or all states...some provisions of the kind are necessary, and therefore the supply and application of state resources constitute the subject-matter of a study which is best entitled in English, PUBLIC FINANCE” (p. 1).

The traditional and current interpretation of public finance was formed in the Soviet period. Such notions as financial activity of a state and financial relationships appeared in that period. Understanding of public finance was determined by the Soviet, command economy and lack of private ownership. The financial activity of a state was defined as the systematic process

¹ According to Oxford Dictionary fine as a noun means a sum of money exacted as a penalty by a court of law or other authority. Origin of fine is from Old French fin “end, payment”, from Latin finis “end” (in Medieval Latin denoting a sum paid on settling a lawsuit). The original sense was “conclusion” (surviving in the phrase in fine); also used in the Medieval Latin sense, the word came to denote a penalty of any kind, later specifically a monetary penalty.
of accumulation, allocation, and use of the centralized and decentralized funds for goals and functions of a state (Voronova & Mart’yanov, 1983: 8). Wherein, the notion of finances covered both public and private finances. So, the term “finance” began to denote all financial relations. Khudyakov (1986) noticed that relationships in the process of the financial activity of a state and the economic and financial relations form a scope of finance. The contemporary scholars of public finance have still followed this approach, despite the fact that Russia’s economy has undergone structural changes. Krokhina (2014: 19) defines finance as a system of the monetary relations in the sphere of accumulation, allocation and use of funds, to facilitate the performance of a state’s tasks and functions. The author doesn’t divide finances into public and private at all. But nowadays, this point of view isn’t widespread, and more and more scholars divided finances into public and private, limiting the state intervention into Russia’s economy.

The disadvantage of the Russian doctrine of public finance law is a lack of any study of public finance functions. The law scholars follow the scientific developments by scholars of economics on this issue, and only the state functions of public finance, superficially. The contemporary Russian legal doctrine does not pay attention to the essence and composition of public finance. As usual, both Russian and foreign scholars deal with the issues of taxation, government expenditures and debts. And in this case, “government” may be understood widely. A government includes both authorities and agencies, e.g. the central bank and a government corporation. There are many different views on including finances of a government corporations and companies into the public sector and public finance. As a rule, corporation finances of all the government’s legal entities are included into the private sector by Russian law scholars. It is determined by the division of law into private and public law, which is a characteristic of civil law. But, we suppose, that a legal entity of any form, is just a way of goal achievement, and may be used not only by non-government agents, but also by the government. Thus, we suppose, that corporation finances of government corporations, companies, government-owned companies and other legal entities established by the government are included into the public finance sector. It is justified by the public interest, which should be realized by these entities’ activity. But the author’s point of view is not widespread in the Russian doctrine. Thus, scholars are limited to research of only the above-mentioned components of public finance, concerning government budgets.

Russian law scholars do not pay attention to the functions of public finance. Meanwhile, the functions of public finance are an integral part of this category, and we cannot understand the scope of public finance, without a study of their functions. The scholars in economics study the functions of public finance and their realization by the government. This interest in the public finance functions is caused by the influence of the publications of Richard A. Musgrave and Peggy B. Musgrave (1989) affecting the Russian economic doctrine. But their three branch model of public finance is not reflected in the public finance law doctrine. Russian scholars in law confine themselves to the simple listing of functions and they do not study legal rules and practice taking into accounts the three main functions – allocation, distribution and stabilization. We agree with the authors who state that the functions of public finance are a permanent and objective category, and the tools of policy, in the sphere of public finance, are subjective and depend on the decision makers (Malinovskaya, Skobeleva & Brovkina, 2018). So, the study of reflection of the public finance functions in law is very important because it may help to understand whether the desired social and economic effects are achieved, or not.

---

2 In Russia, a government corporation and a government company are the organizational and legal form of a legal entity. One should differ “a government-owned company” and “a government corporation”, “a government company”. A government-owned company is a joint stock company or a limited liability company when a government is a shareholder. In the case of a government corporation or a government company, shareholders are absent.
Nowadays, researches in the sphere of public finance are divided into economical and legal areas. The scholars in economics primarily study the impact of public finance on the economy, including economic growth, macroeconomic stability, and the volume of investments and so on. The scholars in law primarily study legal relationships in the sphere of public finance, including the issues on different procedures, control, audit, responsibility, obligations and so on. In the beginning of the XX century such specialization in the research of public finance did not exist, and this fact allowed the scholars to immerse in the area of public finance. Even Bastable wrote that public finance cannot be studied only from the perspective of economics or only from the perspective of law. It should be an autonomic branch of science, including both the economical and the legal issues, Bastable wrote (1903). The same position was followed by scholars in public finance before 1917. It is determined that public finance is not just public funds for the support of a government’s tasks, such as health care, defense, law enforcement, and education, it is a powerful regulator of a society as a whole, including the constitutional principle of equality as a matter of legal research. Obviously, it is not an easy principle to understand. Equality has many aspects. As a rule, a state’s constitution or basic law (laws) establishes only legal equality, e.g. Russia’s Constitution of 1993 establishes that everyone is equal before the law. But Russia’s Constitution does not establish the equality of social opportunities as a principle which would predetermine the fiscal policy in Russia.

The Soviet period in Russia’s history broke up the succession of research of public finance. In that period the researches of public finance were utilitarian and served to justify the socialist ideology. The Soviet scholars did not examine such important questions as the principles and functions of taxation, transparency of budget process, and the functions of public finance as a whole. They were not included in the international dialogue, and this fact created the gap in the doctrine of public finance law and legislature.

3. A scope of public finance in the foreign doctrine

Public finance may be defined in different ways depending on the purposes of a research. The scholars with the specialisation in politics define public finance as the discovery and appraisal of the effects of government financial policies (Rolph & Break, 1961: 11). Holcombe (1983) highlighted the issue on equilibrium concepts of the public sector. The author pointed out that “prior to World War II, the English language literature on public finance was primarily concerned with taxation, and important contributions concerning the theory of resource allocation through the public sector were not made until after that time” (p. 11). Holcombe explained this fact by including the issues on taxation into studies of public finance, in the contemporary meaning, as a sphere of both public revenues and public expenditures. Thus, taxation became to be taken by scholars as a source for financing public goods. “As a result of the change in emphasis, taxes are now analysed as the price paid for public sector output” (Holcombe, 1983: 11). It shows the domination of the fiscal function of taxation over the function of social equation. It is undoubtedly, this concept of taxation reflects in public finance law in many countries including Russia. But recently, the concept of public finance has been changed in developed countries. Such authors as Kaplow (2006) and Wellisch (2000) notice, that public finance is a sphere of allocation of the national resources aimed at welfare. Wellisch writes about public finance in a federal state “(t)he general functions of the government – to support an efficient allocation of scarce resources (where the private sector fails to do so) and to guarantee a fair income distribution – must first be divided into several components” (p. 1).

3 For this paper the fiscal function of a tax means a function to accumulate the public funds not considering the regulatory effect. The fiscal function as a term is used in another way than it used by Musgraves who named all three function of public finance (allocation, distribution, and stabilization) as the fiscal function.
As Musgrave (2008) pointed out, public finance should implement the three basic functions - allocation, equity in distribution and stabilization. The allocation function means the production of public, primarily social, goods. All countries are different in the question of what tasks should be performed by a government, at the expense of taxpayers, and what tasks should be performed by the private sector. For example, a temporary disability and maternity are conditions affecting compulsory social insurance in Russia, but do not in the USA. But such functions as defence, law enforcement, education, and health care are every government’s functions in all countries. Funding of these functions is an example of the realization of the allocation function of public finance.

The second function of public finance is the distribution of income and wealth for the reduction of social inequality. And the third function of public finance is the stabilization of economic growth. Musgraves made a huge impact on the concept of public finance, especially, in the USA, Canada, EU countries and other developed countries. The ideas of Musgraves began to penetrate the Russian economic doctrine recently as well. But Richard Musgrave’s three branches model is not widespread in the Russian legal doctrine yet. The value of Musgraves’ ideas is not just in the naming of these three functions, but in the creation of the concept of the optimal combination of all three functions, because each function excludes the others. Thus, according to Musgraves, the fiscal policy should be aimed at the avoidance of a dominant function over the others.

4. The reflection of the contemporary understanding (concept) of public finance in the Russian and foreign law

The understanding of public finance in a state reflects on legal rules in laws, administrative regulations, judgements and other sources of law. In Russia, the key sources of public finance law are the Budget Code and the Tax Code of the Russian Federation. According to the Budget Code, art. 6, a budget is a form of generation and spending of money aimed at a government’s goals achievements. It is not clear, which a government’s goals should be achievements. A government’s goals are defined by policy makers in the government and may be vary from year to year. Obviously, the aforementioned legal definition of a budget, as a core category of public finance, reflects the allocation function of public finance.

The Tax Code defines a tax as a compulsory payment for funding the Russian government’s tasks. And again, it denotes to the allocation function of public funds.

The Constitution of the Russian Federation establishes the main personal rights and freedoms. But the main functions of public finance are not reflected in Russia’s Constitution. At the same time, many constitutions of foreign countries establish the legal guarantees for the realisation of all three main functions of public finance.

Portugal’s Constitution of 1976 (amend. of 2005) is notable in this question. The clause of art. 103, sec. 1, establishes that the fiscal system shall aim, not only to satisfy the financial needs of the state and of other public bodies, but also to ensure a just distribution of income and wealth. This clause is supported by another clause of art. 104, sec. 1, according to which personal income tax shall aim to reduce inequalities, shall be single and progressive, and shall pay due regard to family needs and incomes. In accordance with art. 104, sec. 3-4, the taxation of assets shall contribute to equality between citizens, and consumer taxation shall aim to adapt the structure of consumption to changes in the requirements for economic development and social justice, and shall increase the cost of luxury consumer items. All these clauses are aimed at solving the problem of social inequality; the progressive model of income taxation is defined at

the constitutional level, and cannot be changed by parliament. All these demonstrate, that the distribution function of public finance dominates in Portugal, unlike Russia, where the allocation function predominates.

The same approach is reflected in Spain’s Constitution of 1978 (rev. 2011), art. 31, which establishes that everyone shall contribute, to sustain public expenditure, according to their economic capacity, through a fair tax system. This is based on the principles of equality and progressive taxation, which in no case shall be of a confiscatory scope. Public expenditure shall make an equitable allocation of public resources.

Liechtenstein’s Constitution of 1921 (amend. of 2011), art. 24, sets out that the state shall provide for an equitable system of taxation, which shall make exempt from taxation, incomes which fall below a minimum level for living, and shall impose heavier burdens on persons in higher wealth or income brackets.

In Russia, all components of the tax and budget systems are set in federal law. Russia’s Constitution does not have a separate chapter devoted to public finance. This fact points at the specific understanding of public finance, as a sphere of relationships aimed at funding the “main” government’s functions and tasks. Frequently, the Russian scholars in law distinguish the primary government tasks and secondary tasks. Thus, public finance is understood by Russian law scholars as a complex of relations about generation, allocation, and use of public funds supporting the performance of the basic government’s goals and functions. Public finance is not considered as one of basic government’s goals and functions. For example, Krokhina (2014) points out that the main goal of the Russian Federation, as a social state, is the funding of social government programs. This goal presumes the performance of the financial activity tasks, i.e. the collection of money and further spending (p. 32).

Welfare is the most important goal of a government in each country, and this goal may be achieved by using of the fiscal policy tools, too. We suppose Russian scholars do not understand the use of public finance in a proper way, as they do not take into account the opportunity to use public finance, to help achieve the social goals.

What provisions of Russia law evidence the minimal, or restricted, understanding of public finance? First of all, it is a lack of progressive taxation of income from labor and the untaxable minimum income. The Russian tax law establishes different deductions and benefits, which are directed on achievement of the social goals. But these tax benefits are too small and insignificant. More importantly, they do not depend on the amount of income. So, these tax benefits may be used by taxpayers with any income. In Russian society, a tax is not understood as a social transfer unlike in the USA (Kaplow, 2006). Nowadays, there are discussions about the implementation of progressive income tax in Russia. The main contra factor is the increasing the shadow-economy and tax evasion. Again, this argument gives evidence of the domination of the fiscal function of taxation. We suppose it is contributed to, by the lack of a constitutional model of public finance, determined by the restricted understanding of public finance in Russia. However, Russian scholars in law, recognise the necessity of a progressive income tax levy, more and more (e.g., Osipova, 2016; Savitskiy, 2016), and it is expedited by the concept of public finance in developed countries, and the inclusion of Russian scholars into the international dialogue.

7 However, the Finance Ministry of the Russian Federation considers that the contemporary system of income taxation is the most balanced (The Letter of the Finance Ministry of the Russian Federation of September, 26, 2017 N 03-04-05/62106).
5. Conclusion

The analysis of Russian and foreign literature and legislature, make the following conclusions:

(1) The scope of public finance, includes its functions as a significant component. The understanding of public finance without its functions - allocation, distribution, and stabilization – will be restricted and not allow a government to govern public finance for achievement of the constitutional goals;

(2) In Russia, the understanding of public finance is reduced to the performance of the service function. Russian scholars underestimate the opportunities of public finance to achievement of the economic and social goals;

(3) In Russia, the understanding of public finance is restricted, and this is reflected in Russia’s legislature. The analysis of certain provisions of the Tax Code and the Budget Code of the Russian Federation, shows that public finance primarily function to support the government tasks performance, and it is apparent in the predominate of the fiscal function of taxation (the allocation function of public finance by Musgraves);

(4) Foreign economic doctrine and law, demonstrate a more deep understanding of public finance. The scholars are not limited by the study of the contemporary processes in the public sector, and, first of all, study the impact of public finance on social inequality and welfare. The distribution function of public finance reflects in law, especially in constitutions of several EU countries. The constitutional clauses regarding the equitable system of taxation, limit the policy makers in the fiscal sphere, and facilitate the optimal combination of all three functions of public finance, and shall not allow slithering to the allocation function.

Acknowledgements

This research did not receive any specific grant from funding agencies in the public commercial, or not-for-profit sectors.

The author declares no competing interests.

References


Палозян О.А., О государственных финансах и характеристике правоотношений по их использованию // Финансовое право. - 2016. - № 10 (Russ.) [Palozyan O. A. (2016). About state finances and characteristics of relationships in the sphere of their use. Public finance law, 10]


