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PROPERTY REGIME OF PUBLIC CORPORATIONS IN THE SPHERE OF LOCAL ECONOMY

When discussing the property regime of public corporations in the sphere of local economy, we must examine the presented problem not only from the viewpoint of nothing but the property of these subjects, but also with regard to the management of such property and realization of enterprise activities in general. Mentioned aspects comprise the nucleus of economical and legal status of the subject of enterprise activity even as far as the sphere of local economy is concerned.

Property regime of these corporations includes in itself several aspects. They are mainly:

1) the statutory arrangement of the legal subjectivity of corporations in their property relations, including the financial, planning and cooperative relations;

2) characteristics and the structure of property (assets) managed by the corporation;

3) functions and dimensions of enterprise activities of corporations from the viewpoint of their extent and contents;

4) internal mechanism of economy of public corporations;

5) link-up of the management of corporation sphere with the state budget;

6) system of relations of intercorporational economical cooperation;

7) sanction regimes;

8) criteria of economization and effectiveness.

Making a draft of economical and legal status of corporations (and of their property regime) in the sphere of local (municipal) economy a number of circumstances is taken into account.

The first of them is to respect the continuity of up to date legal development, that is the use of positive elements, moments and experiences (traditions) of the preceding systems of regulation of the local economy. In the post-war period of the management of local economy the exceptional role was

assigned to national committees. Intensification of this tendency is observed also at the present. In so doing there were followed up also the older experiences from the management of towns and villages. Regime of management of territorial units found its expression also in the Constitution of May 9th, 1948, in which, besides other forms, also the so called municipal ownership was laid down. Just in these days, when there is so much discussion on the extension and intensification of forms of socialistic collective ownership, experiences from the post-war period should represent the subject of proper scientific evaluation and possibly of considerations also from the viewpoint of *de lege ferenda* proposals.

Another fact that has to be taken into account at the creation of the legal-theoretical conception is the respect for the more extensive connexions of rebuilding of economical mechanism. Adjustment of enterprise activities and management in the sector of local economy starts in the substance from the general principles of regulation of the corporation sphere. This reality is respected also by the Public Corporation Act (Act No. 88/1988 of the Code) as well as other related acts (e. g. the amendment of the Economical Code, National-economy Planning Act and others).

As far as the legal subjectiveness of corporations is concerned, the new adaptation starts from the total and indivisible legal subjectiveness which the public corporations have at their disposal, regardless of the subject of its enterprise activity, the sphere of management activities (that is central or territorial), size and the structure of corporation or possibly other specificities resulting from the conditions of realization of its social mission. In this connection the drafting of status of the national committees, as the founders of public corporations in the sphere of the local economy and of organs of economical management is performed by the new way.

Public Corporation Act, but first of all the amendment of the Economical Code, underline the integrity of the property (assets) of corporation, namely in the sense of uniform understanding of the material substrate of property, as well as of its other property rights (including the rights to the results of research, developmental, designing and other commercial activities), primarily of claims.

In spite of the fact, that the local economy corporations realize their enterprise activities in the interest of fulfilling the material and cultural needs of citizens of the given territorial region, the extent of their enterprise activity has been drafted in the broader range. In this connexion there applies the rule that the socialistic organizations can perform yet other economical activities than those resulting from the allowed or determined subject of activity, as far as they do not fail to fulfil the obligatory outputs of the state plan or disturb the fulfilment of economical obligations. This contributes moreover to the gradual removal of barriers imposed by administratively determined territorial zoning.

With regard to the mechanism of management expected is the wider extent of application of the principle, that the corporation manages as a rule only those resources, created by it by the socially desirable way, mainly by its enterprise activities. They will serve preferentially to fulfil its duties towards the society and assure the reproduction of national property, including its own assets. At the same time there will be canceled the appropriations and redistributions of financial means on the level of an organ of economical management, as well as the numerous present exceptions, which often serve to cover the ineffectiveness and the lack of economy. The budget of national committee should cover the individual supplying of non-investment appropriations only to the public corporations operating in the non-productive sphere, namely to support the development of perspective production and services.

The new economical mechanism enforces the rule that each subject of enterprise activity should satisfy its needs in the individual areas of economical and social activity in dependence and close connection with the creation of its own financial sources, predominantly the profit. This principle is reflected also in the contents of the Public Corporation Act. This provides considerable legal guarantees, that the financial sources created by the public corporation, resulting mostly from its enterprise activity, will belong to this subject, excluding of course the sources used preferentially to fulfil its legal duties towards the budget. This concerns especially the so called disposable profit. According to the Act the corporation cannot be dispossessed of it.

On the basis of above mentioned cancelled is in substance the up to date practice of centralization and re-dividing of profit on the level of the organ of economical management. Therefore the public corporation decides independently on the use of disposable profit following its own economical needs and interests. Contrary to the previous formulation the full amount of created depreciations in production essentials will remain as a rule at a disposal of corporation to use it independently, predominantly for the reproduction of production essentials. Therefore the obligatory deliveries from depreciations in production essentials will not be demanded apart from the small exceptions in the period up to 1995.

With the development of full cost-accounting in the self-supporting units and self-financing corresponds also the mechanism of financial management of corporations. This concerns above all the rules of creation and utilization of monetary funds of public corporations with present considerable simplification including the system of monetary funds. The corporation will now create the advancement fund, reserve fund, premium fund, fund of cultural and social needs, while other funds of purpose can be created, e. g. the fund in foreign bills. The new governmental decree about financial management of public corporations will replace a number of generally obligatory legal regulations settling the questions in the sphere of financial activity of the state.

The purpose of the rebuilding in the area of financial relations to the state budget consists in applying (even from the viewpoint of possible changes) of uniform and long-term economical rules and means towards individual public corporations, mainly deliveries and taxes. In this connexion the proposals of acts on deliveries to the state budget and the income tax are pending in the Federal Assembly of Czechoslovakia, which together with previously proposed Agricultural Tax Act represent the centre of changes in the field of regulations of deliveries and tax obligations of organizations with regard to the state budget. In spite of the requirement of uniformity of financial-economical means national committees will nevertheless have the possibility to use also the means of territorial planning, e. g. in the form of surcharges to deliveries and taxes from the bulk of wages, reductions and additional charges to the other types of deliveries (e. g. from profit) and taxes. The main followed objective of this practice consists in the improvement of the structure of population and reproduction of work force in extreme and remote regions and on the contrary in supressing the excessive developmental intentions in certain industrial centres and agglomerations.

Mentioned changes in the question of legal regime of economical activities of public corporations should be understood in the context with the complex rebuilding of economical mechanism, taking place in our society.

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WŁASNOŚĆ PAŃSTWOWA A GOSPODARKA LOKALNA

W opracowaniu zaprezentowano rozwiązania prawne dotyczące własności przedsiębiorstw państwowych w systemie gospodarki lokalnej. Własność tych przedsiębiorstw może być rozważana w wielu aspektach; może być przedmiotem ustawowej regulacji kwestii podporządkowania i podległości przedsiębiorstw państwowych, może dotyczyć funkcji i rozmiarów zadań przedsiębiorstw z punktu widzenia ich zasięgu, wiązać się z wewnętrzną strukturą organizacyjną, powiązaniem przedsiębiorstw z budżetem. Może wpływać na system zależności między przedsiębiorstwami, wynikający ze współpracy gospodarczej i kooperacji, a także na ekonomizację i efektywność przedsiębiorstw.

Autorzy przedstawiają mechanizm zarządzania przedsiębiorstwami oraz wspomniane aspekty z uwzględnieniem doświadczeń czeskosłowackich w okresach ubiegłych. Prowadzi to do sformułowania propozycji zmian idących w kierunku ujednolicenia rozwiązań i zasad prowadzenia działalności gospodarczej tych przedsiębiorstw w skali federacji. Nie oznacza to jednak wyłączenia możliwości stosowania szczegółowych rozwiązań odmiennych w różnych jednostkach terytorialnych. Dotyczy to m. in. kwestii zapewnienia dochodów budżetów lokalnych. Zmiany te muszą być jednak zgodne z ogólnymi kierunkami przebudowy gospodarki państwa.