

Description of the Maltese legal context regarding the local fiscal policies and the Renewable Energy Sources

0 Introduction

Even if it is a common idea that Local Councils in Malta must gain more autonomy to function properly and must be based on the principle of subsidiarity, the Maltese local authorities do not manage any tax and the fees/tariffs collected by them are regulated by the central governments. Even if the context seems to leave no room for local authorities to create or modify tax or fees/tariffs, there are many opportunities to influence the national agenda and give more autonomy to the local authorities to promote renewable energy sources throughout local fiscal policies and/or to influence the national authorities to put in place fiscal policies to promote the renewable energy sources.

1 What **taxes** do the local authorities usually manage? Can they be used by the local authorities to promote the Renewable Energy Sources?

According to the Constitution, Malta is a unitary state with no federal structure. The only element of self-government below the level of the Republic itself is the system of local councils (68 in total). Presently local authorities (local councils) do not manage any taxes. This has been justified by the small size of these municipalities (populations varies between 400 and 21,000).

Despite this, in the past years there were political debates on the importance of local taxation for the development of responsible local self-government and the Maltese authorities are starting to consider the possibility of introducing a system of local taxes through a step-by-step approach. For instance, this could be achieved by transferring a portion of state taxes to a scheme of local taxes without increasing the overall fiscal burden.

2 What **tariffs/fees** do the local authorities usually manage? Can they be used by the local authorities to promote the Renewable Energy Sources?

Local Councils manage the following tariff/fees:

- 1. Permit fees:** Permits for cranes / elevators / High ups / skips / containers / bowsers / scaffolding to be placed on the streets.
- 2. LAS:** Trade Licences payments: i.e. street hawker / establishment of open-air markets / other commercial activities requiring a licence.
- 3. Administration fees:** copies of official Tenders documents.

4. **LES:** Payments of contraventions *

5. **LEMIS:** Government Property Rent payments *

* In the case of the LES and the LEMIS, the local authorities manage the collection only. In general, the tariffs/fees are regulated by the central governments through legal notice LN119/2002.

3 What **other fiscal revenues** (see definition in the glossary) do the local authorities usually manage? Can they be used by the local authorities to promote the Renewable Energy Sources?

No other fiscal revenues are managed by local councils.

4 Glossary

Municipalities or local authorities

The methodology has been designed for local authorities, considered as Local Administrative Units (LAUs) under the EUROSTAT classification in its correspondence table (EUROSTAT, 2016), which was created to facilitate the comparison of administrative structures in each member country. The methodology has particularly been designed for local administrative units classified as LAU1, whose administrative boundaries correspond to a single Local Administrative Unit. Furthermore, the methodology covers Local Administrative Units classified as LAU2, whose administrative boundaries include various compulsory local administrative units. Therefore, voluntary associations are not included in this category. In the case of Greece and Portugal, for example, this clarification is important as their administrative systems provide for local authorities classified as LAU1 and LAU2 by EUROSTAT. We will use local authorities, public bodies and municipalities interchangeably in this guidebook to refer to all local authorities/bodies classified as LAU1 and LAU2 by EUROSTAT.

Fees, taxes, tariffs and charges

One of the challenges in promoting renewable energy through fiscal policies at local level is the differences that exist among local legal systems, as well as the differences between concepts and terms relating to local fiscal systems. In this regard, the guidebook takes into account that local fiscal policies include different concepts, such as taxes, fees, charges and tariffs. All these concepts share the common characteristic of being revenue that municipalities receive by virtue of being public powers. Even though these types of tax-related revenue may have different names in each country and may include different aspects, even if they do share the same name, the essential features that we refer to in this guidebook are set out below.

The sole aim of this conceptualisation, beyond the legal-administrative, is that the different types of tax-related revenues in each country may relate to one concept or another.

Taxes and fees

Both concepts are forms of revenue deriving from State taxation power. Both are revenues that a taxable entity has to pay when a situation arises for which there is an obligation to pay, taking coercive measures in the event of non-payment. In general, the ability of taxpayers to pay is taken into consideration when establishing and managing both cases. They are both at the top in terms of strictness regarding their imposition formalities and management requirements.

Taxes: have to be paid on receiving an income, being the owner of property and undertaking a particular activity. For example: income tax, immovable property tax and VAT. In general, the wealth that one declares is taxed.

Fees: have to be paid for using a public service or for occupying public-owned property. For example: fees for occupying a stall in a municipal market, entering a municipal swimming pool, studying a training course taught by the municipality, receiving a healthcare service provided by the municipality, receiving a waste collection service and a water supply service, etc. In some cases, the obligation to pay for waste collection and water supply services, for example, arises from the mere fact of being the owner or tenant of a property who could potentially, although in actual fact may not, use the service.

Tariffs

The difference between tariffs and fees is not very clear. For the purpose of this guidebook, a tariff is the amount to pay for using a property or facility, or for the provision of a public service when it is managed through a public-owned company or when it is paid to a concessionaire of a public service.

Charges

Charges are both the amount a public authority pays a concessionaire to provide a service and the amount paid by a concessionaire to the public authority in order to provide such service.

It must be borne in mind that in some cases the public authority pays the provider for the service and in others it charges the provider of the service.

The difference emerges when the municipality pays, then later charges the users of the service, and when it charges the concessionaire, which then charges the users of such service.

What is a concessionaire?

For the purpose of this guidebook, a concession is a right granted by a public authority or public company to another actor, usually private, to operate public property or services for a fixed period of time.

The management and, occasionally, the tariff collection is transferred to the concessionaire through what is known as a Public–Private Partnership (PPP). The public authority holds

the ownership and policing power of the service, while the concessionaire physically provides it, receiving a payment called a tariff.

The concessionaire is, therefore, the title holder of the concession.

Non-ETS sectors

The methodology centres on municipal fiscal policies that affect the so-called non-ETS sectors. Said sectors undertake activities that are not subject to the Emissions Trading System (ETS). They represent, therefore, the sectors that use energy less intensively. The following sectors are included in this category:

- ✓ Residential, commercial and institutional
- ✓ Transport
- ✓ Agriculture and farming
- ✓ Waste management
- ✓ Fluorinated gases
- ✓ Industrial not subject to trade emissions.

(Filippi, F., García Maties, R., 2017, 13-15).

5 Bibliography

LN119/2002.

Filippi, F., García Maties, R., (2017). *Participatory method-based preparation of local fiscal policies to promote renewable energy sources at a municipal level*. València: Fundación MUSOL.