

Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO TRANSITION AUTHORITY
Cotabato City

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Resolution No. 450



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A RESOLUTION
DIRECTING THE MINISTRY OF FINANCE, BUDGET AND MANAGEMENT TO APPRAISE THE BANGSAMORO PARLIAMENT ON THE IMPLEMENTATION OF THE SUPREME COURT DECISION IN THE MANDANAS CASE WITHIN THE BANGSAMORO AUTONOMOUS REGION

WHEREAS, Section 6, Article X of the 1987 Philippine Constitution provides that all local government units (LGUs) shall have a just share, as determined by law, in the national taxes which shall be automatically released to them;

WHEREAS, in *Mandanas, et al. v. Executive Secretary, et al.* (G.R. Nos. 199802 and 208488, July 3, 2018), the Supreme Court resolved with finality the basis for the "just share" of local government units under Section 6, Article X of the Constitution as being based on all national taxes and not only national internal revenue taxes, as provided in Section 284 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991;

WHEREAS, the High Court ruled that in the basis for computing the just share of the LGUs, the exclusion of *other* national taxes contravenes the express constitutional edict in Section 6, Article X of the 1987 Constitution. As such, the base shall include, among others, fifty percent (50%) of the Value-Added Taxes (VATs) collected in the ARMM, and thirty percent (30%) of all other national taxes collected in the ARMM, pursuant to R.A. 9054;

WHEREAS, with the enactment and ratification of R.A. 11054 on January 21, 2019, the Bangsamoro Organic Law (BOL) came into effect which established the new Bangsamoro Autonomous Region. Enjoying political decentralization and fiscal autonomy, the BOL provided, among others, Section 10, Article XII which states:

Section 10. Sharing of Taxes Collected by the National Government. - National Government taxes, fees, and charges collected in the Bangsamoro Autonomous Region, other than tariff and customs duties, shall be shared as follows:

- a. Twenty-five percent (25%) to the National Government: Provided, that for the first ten (10) years following the effectivity of this Organic Law, this share shall accrue to the Bangsamoro Government: Provided, further, that after this first ten (10)-year period, upon petition of the Bangsamoro Government, the National Government may extend the period as it shall deem it necessary; and
- b. Seventy-five percent (75%) to the Bangsamoro Government, inclusive of the shares of the constituent local government units.

WHEREAS, given the substantial increase in the shares of the LGUs from the national taxes following the implementation of the *Mandanas* ruling, the President of the Republic of the Philippines issued Executive Order No. 138, s. 2021 on June 1, 2021, with the end view of implementing full devolution of the provision of basic services and facilities to the LGUs under Section 17 of R.A. 7160;

WHEREAS, on June 14, 2021, the Department of Budget and Management issued Local Budget Memorandum (LBM) No. 82 to inform the LGUs of their indicative National Tax Allotment (NTA) for the Fiscal Year 2022 based on the computation of the share of LGUs from the actual collections of national taxes in Fiscal Year 2019 pursuant to R.A. 7160 and the *Mandanas* ruling;

WHEREAS, Section 2.2.5.1 of LBM No. 82 instructs that there shall be a scaling down of the financial subsidy of national government agencies for local programs and projects of LGUs. Consequently, it shall refrain from funding devolved projects for LGUs belonging to the 1st and 4th income classifications and limit subsidies for local projects to LGUs belonging to the 5th and 6th income classes, the Geographically Isolated and Depressed Areas, as well as those with the highest poverty incidences;

WHEREAS, accordingly, the LGUs that will no longer be covered by pertinent national government agencies starting FY 2022 shall be primarily and ultimately responsible and accountable in providing funds for the implementation and delivery of devolved functions and services pursuant to Section 17(b) of R.A. 7160 and other existing laws;

WHEREAS, notably, Section 13, Article VI of the Bangsamoro Organic Law provides that national programs and projects such as the Pantawid Pamilyang Pilipino Program, Health Facility Enhancement Program, School Building Program, retained hospital of the Department of Health, PhilHealth, social pension for senior citizens, and the Task Force Bangon Marawi shall continue to be funded by the National Government, without prejudice to the power of the Bangsamoro Government to provide for supplemental funding for such programs and projects;

WHEREAS, following the *Mandanas* ruling and the issuance of LBM No. 82, uncertainties are surrounding the computation of the base of the just share of LGUs given the following considerations:

- a. Republic Act No. 11054 amended certain fiscal autonomy provisions of the old Organic Law; hence, no distinction should be made whether taxes are collected as VAT or otherwise, and the share of the Bangsamoro Government of national taxes, fees and charges already increased to seventy-five percent (75%);
- b. The proviso in Sec. 10, Article XII of R.A. 11054 must also be considered in the computation of the base amount of the share of the LGUs in view of the fact for the first ten years from the effectivity of the Organic Law, the twenty-five percent (25%) share to the National Government shall accrue to the Bangsamoro Government; and
- c. Pursuant to the plan of the National Government for full devolution as a measure to mitigate the fiscal impact of the *Mandanas* ruling, LBM No. 82 must take into consideration pertinent provisions of the Organic Law which provides that national programs and projects in BARMM shall continue to be funded by the National Government;

WHEREAS, based on the foregoing, there is a necessity for the Ministry of Finance, Budget and Management (MFBM) to appraise the Bangsamoro Parliament on the effects of the *Mandanas* ruling and the issuance of LBM No. 82 relative to the correct computation of the base for the LGUs just share in the national wealth, the national tax allotment for BARMM for FY 2022 and beyond, and the continued funding of national programs within BARMM by the national government, which may contradict its plan of full devolution;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved by the Bangsamoro Transition Authority, to direct the Ministry of Finance, Budget and Management to appraise the Bangsamoro Parliament on the implementation of the Supreme Court decision in the *Mandanas* case within the Bangsamoro Autonomous Region.

Adopted,

AUTHOR/S:



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Member of the Parliament

Certified correct:

PROF. RABY B. ANGKAL
Secretary-General

Attested by:

HON. PANGALIAN M. BALINDONG
Speaker