

**Financial Resources as the Object of Legal Regulation in Terms  
of Ukrainian Statehood Development**

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Legal regulation of public finances in Ukraine under the threat of state integrity, economic and political instability in the early XXI century requires examination of all factors influencing the formation of conceptual theory of law of Ukrainian statehood. Politician V. Vynychenko determines the statehood as a complex of institutions of economy, politics, culture, operating on the territory inhabited by the national group, which link it to the contact integrity, ensuring the development at the present time and in the future<sup>1</sup>. The main features of the statehood including: public authorities, courts and judiciary, military forces, financial system, fiscal system, the system of legal norms, population and territory are analyzed in the current legislation and research of the scholars. However, topical is the research of legal principles of forming a stable and efficient financial system to ensure the material needs of the operation and development of all regions of the country and

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<sup>1</sup> R. Korshuk, Ukrainian Statehood – Myth or Reality // Forum Natsii. Newspaper of the Congress of National Communities of Ukraine. – 09.11.2009 // <http://www.forum.kiev.ua/2009-11-90/90-01.html>

every citizen in terms of reforming the economy and the protection of political and economic priorities of Ukrainian state.

The necessity of building a general theory of national security as an integrated system of knowledge about national security – the general theory of national security, the so-called “knowledge about national security” is grounded in scientific literature<sup>2</sup>. From this perspective, the importance of the knowledge about national security is in developing the algorithm on the formation of interconnected concepts and recommendations for guaranteeing protection of national statehood.

At the present stage of Ukrainian statehood development it is necessary to take into account financial and legal foundations of the functioning of the state economy and its administrative and territorial units as a part of the algorithm of the theory of Ukrainian statehood in the modern state of economic

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<sup>2</sup>V.A. Lipkan, Administrative and Legal Grounds of Securing National Safety of Ukraine // Thesis for a doctoral degree by speciality 12.00.07 – administrative law and procedure, financial law; informational law – Kyiv National University of Internal Affairs, Kyiv, 2008.- 36 p.

development of the state and political situation in the country. Finances are used for the distribution of gross domestic product and national income in the state, to control over these activities and the state regulates these relations by normative and legal acts. The state and the movement of state finances, as well as local, depends on the decisions and actions of public administration, which are under the threat of national interests become important and require a balanced legal regulation.

Legal regulation of the formation, distribution, use and control of public finances are studied within the theory of financial law. Well-known and true is the position of the experts in the field of financial law that these are the public finances, unlike private ones, are the object of financial law<sup>3</sup>. However, the notion of public finances and their role in the financial and legal relations have not found to the present time a final determination in the science of financial law. Most of scholars believe that the financial system of the state includes public centralized and decentralized funds of resources necessary for the functioning of the state, local governments and other public entities<sup>4</sup>. Thus, the concept of publicity of financial resources is not limited by financial resources serving exclusively national needs. However,

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<sup>3</sup> L.K. Voronova, *Financial Law of Ukraine: Textbook* /L.K. Voronova. – K. : Pretsedent, Moia Kniha, 2006. – 448 p.

<sup>4</sup> p.33

there are other interpretations of the content of the notion “public finances” and their place within the financial system of the state. Scholars in their papers determine that the implementation of the categories “public expenditures” and “public finances” requires a revision of the definition of the financial system of the state and they offer to allocate the subsystems of public and private finances within the financial system of the state for clear differentiation of social relations that cover the object of financial law<sup>5</sup>.

The state finances that are the object of legal regulation by the public entities and private finances, the circulation of which depends on the market economy are clearly differentiated in the science of financial law. Thus, the publicity of finances is due to the legal nature of the formation and functioning of the subjects of public and private form of ownership and to organizational and legal form of their economic activity. Finances of entrepreneurship subjects unlike the finances of business entities, finances of the subjects of state and municipal agencies indirectly depend on financial and legal regulation as soon as they are subject of civil law. Thus, private finances are outside the financial system of the state, which are the object of

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<sup>5</sup> A.A. Nechai, *Legal Issues of Regulating Public Expenditures of the State [Text] : Synopsis of a Thesis for a Doctor of Juridical Sciences: 12.00.07 / A.A.Nechai, Scientific and research institute of financial law of the National Academy of Tax Service of Ukraine and the Academy of Law Sciences of Ukraine. – K., 2005. – 578 p.*

financial and legal regulation.

Disputable are also assertion that publicity of state finances is in a public character of the financial activities of the state<sup>6</sup>. The activities of the state and local governments in the field of finances is carried out to form, distribute, use and control both centralized and decentralized funds of resources. All subjects of financial legal relations are involved in the payment of taxes and charges, earnings contributions from business activities and use budget allocations from the state budget, are entitled to transfer payments, etc. From this perspective, the publicity of finances is implemented within the activity of all subjects of these relations not only the state's activity and financial resources that are the object of financial and legal regulation have really public nature. However, national financial interests and financial interests of local governments, enterprises engaged in commercial activity, financial intermediaries, non-commercial (non-profit) organizations are different. Differences in formation, distribution, use of centralized and decentralized funds of resources may be traced according to the principles, tasks and methods of financial activities of the subjects of financial legal relations. Settlement of national needs through public financial resources that are

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<sup>6</sup> T.M. Demianenko, Public Financial Resources as a Category of Financial and Legal Relations //Access: <http://vuzlib.com/content/view/2696/124/>

used by all entities should not be carried out due to the financial interests of individual subjects of financial legal relations. Local finances are equally important for allocation both national and regional needs.

For example, funding for roads, which is made from the national budget and used by all consumers, does not negate the rights of local governments to receive budget funds for repairing these roads and funds for maintaining municipal transport. However, the bad state of these roads demonstrates unsatisfactory state of state financing, not considering the interests of local residents like other citizens, and the need for providing the right to local governments to obtain funds from other sources, for example from the owners of private vehicles engaged in passengers transportation, i.e. the possibility of forming their own financial resources of purposive appointment. Another example concerns the law enforcement activities in regions, funded by the state budget. Financial resources for the maintenance of police in cities, towns are provided in an amount not sufficient to material support of law enforcement activities (money for the maintenance and repair of premises, maintenance of computers, uniform, etc. is not provided for years). Police activities is essential to combat crime, to help local residents, to keep public order in the area, especially in terms of civil conflict or military

aggression. Creation of police divisions, which are funded from the local budget is an urgent need, but at the present time the law enforcement activities in regions has no corresponding financial support either at national or local level.

These examples demonstrate the need to ensure a balance between national and regional financial interests with regard to organization of circulation of both public finances and local ones.

Publicity in financial activity can not be limited by the right on the formation, distribution and use purely centralized funds considered necessary for the state. Municipal finances are also the subject to legal regulation for the development of decentralized funds. From this perspective, public financial resources both centralized and decentralized funds of resources are not identical in content and legal nature, as well as the mechanism of their formation. Since the subjects mainly perform the duties in the mechanism of formation of fund resources but they have both duties and mostly rights in the distribution and use.

So, the author does not share the conclusion contained in the research that public financial resources are cash funds of resources of public entities (state and municipalities) and means of their revenue to the centralized and decentralized public funds

of resources<sup>7</sup>. Since the existence of public financial resources that are used to meet both national and regional needs does not negate the existence of local funds of resources, the mechanism of formation of local financial resources as a component of the financial system of Ukraine requires legal regulation. Taking into account this fact, the author shares the view present in scientific research that while regulating the circulation of public finances we need to distinguish financial resources as a set of revenues, providing the state and local communities' activities and the dynamics of financial resources<sup>8</sup>.

Formation, distribution and use of public and local financial resources require reforming of budget, tax legislation to establish the relevant powers to extend the autonomy and independence of local governments, business entities, non-profit organizations on providing regional financial interests and needs of citizens. In terms of political instability and economic crisis, the spread of the rights of the subjects of financial

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<sup>7</sup> D.A. Kobylnyk, Legal Nature of Public Financial Resources // D.A. Kobylnyk. – *Universytetski naukovi zapysky*, 2007, No.4 (24), P. 270–282, s.281.

<sup>8</sup> O.A. Lukashev, Financial Resources as an Initial Category in the Regulation of Public Finances Circulation // *Relevant Problems of Legal Regulation of Financial and Credit Relations in Terms of Crisis: Practice of Law Enforcement and Ways of its Improvement: collection of thesis under the materials of International scientific and practical conference. (June 4–5, 2010) / State Higher Educational Establishment «Ukrainian Academy of Banking of the National Bank of Ukraine».* – Sumy : SHEE «Ukrainian Academy of Banking of the National Bank of Ukraine », 2010. – P. 230–235, s.230.

legal relations in regions should be under the constant state financial control. Guaranteeing local financial interests through redistribution of public financial resources and

improvement of the mechanism of legal regulation of finances will contribute to economic development, both in regions and in the state in the whole.