

Legal Mechanism of State Administration of the European Integration Process in Ukraine

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Abstract

Ukraine is currently negotiating with the EU regarding accession, which involves conducting a screening for compliance with EU law. To improve the legal mechanism of state administration in the European integration process in Ukraine under the chapter «financial and budgetary provisions» it is proposed to amend the Budget Code of Ukraine by replacing «principles of the budgetary system» with «budgetary principles». It is also suggested to substitute the principle of efficiency and effectiveness with the principle of sound management of budget funds and productivity. Additionally, Chapter 18 «Liability and Measures for Violations of Budget Legislation» of the Budget Code of Ukraine should include liability for non-compliance with the principle of sound management of budget funds and productivity. To enhance state governance of the European integration process in Ukraine, it is proposed to establish a Public Finance Office within the Cabinet of Ministers of Ukraine in accordance with the European Commission's recommendation to form a coordinating body for administrative processes within the own resources system to raise awareness among key parties involved. To address a significant number of gaps in public finance management – a key area in the context of good governance – it is proposed to develop the structure of a Law «On Public Finance Management in Ukraine». To fulfil the European Commission's recommendations under the section «financial control» it is proposed to fully implement into Ukraine's audit practice the International Standards of Supreme Audit Institutions (ISSAI) and Global Internal Audit Standards (GIAS), and legally enshrine these standards in Ukraine's regulatory audit framework. A critical analysis of the Law of Ukraine «On the Basic Principles of State Financial Control in Ukraine» has been conducted, identifying its significant shortcomings. Based on this analysis and European practices in financial control, the structure of a new Law of Ukraine «On State Financial Control in Ukraine» is proposed.

Keywords: state administration of the European integration process; budgetary provisions; financial provisions; financial control.

Relevance of the topic. The methodological foundation of state administration for any object, as well as the means of its practical implementation, is the set of mechanisms it relies on. These are defined as «a system of methods for organizing administrative processes and levers of influence on the development of controlled objects through appropriate administrative methods aimed at implementing the goals of state governance» [5, p. 9]. Different mechanisms of public administration are generally distinguished. However, within the comprehensive mechanism of public administration, the following mechanisms are usually included [2, p. 80]: **motivational** (a set of command-administrative and socio-economic incentives that encourage civil servants to work efficiently); **organizational** (includes objects and subjects of public administration, their goals, tasks, functions, administrative methods, organizational structures, and the results of their functioning); **economic** (covers governance of banking, monetary and currency systems, investment, innovation, credit, tax, and insurance activities); **political** (mechanisms of forming economic, social, financial, and industrial policies); **legal** (normative-legal support including laws and resolutions of the Verkhovna Rada of Ukraine, presidential decrees, resolutions and orders of the Cabinet of Ministers of Ukraine, as well as methodological recommendations and instructions)».

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Analysis of recent studies and publications referenced by the author. An analysis of the works of domestic scholars indicates a complete absence of any developments in the field of the legal mechanism of state administration of the European integration process in Ukraine. Against the backdrop of such a negative state of research in this area, the relevance of the present study increases significantly.

The aim of the article is to improve the legal mechanism of state administration of the European integration process in Ukraine.

Presentation of the main material. The legal mechanism of state administration of the European integration process in Ukraine constitutes a set of regulatory and legal provisions related to this matter. An analysis of Ukraine's legislative framework shows that the number of such acts exceeds 1,200 entries; obviously, it is not feasible to review them all within a single publication. Therefore, the focus will be on the most problematic areas, identifying the scope for their amendment, supplementation, and clarification.

We will begin with the most problematic areas identified by the European Commission, namely: financial and budgetary provisions, financial control, the ability to compete in the EU market, social policy and employment. Considering the primary role of financial support in ensuring the implementation of all aspects of state administration, it is proposed to focus specifically on financial issues, namely: financial and budgetary provisions, as well as matters of financial control.

First of all, let us recall that the European Commission's recommendations regarding financial and budgetary provisions envisage the formation of a coordinating body for administrative processes within the system of own resources, with the aim of increasing awareness among key parties involved [18]. The Public Finance Office under the Cabinet of Ministers of Ukraine could serve as such a coordinating body.

However, in addition to purely technical and organizational provisions, certain methodological and other substantive-organizational aspects also require resolution.

Let us recall that the approaches of public administration to the formation of budgetary provisions in Ukrainian legislation are defined in the Budget Code of Ukraine [1]. Among other things, particular attention is drawn to the fundamental provisions on which the entire above-mentioned regulatory document is built – namely, the principles of the budgetary system, which include the following (tab 1).

Table 1

Principles of the Budgetary System of Ukraine*

Name of the Principle	Essence of the Principle
unity of the budgetary system of Ukraine	consists in its integrity, ensured by centralized management, clear and binding regulations for all spheres (budget legislation), the monetary system, etc.
balance	involves the need to correlate the volumes of expenditures and revenues of budgets
autonomy	refers to the independence of the State and local budgets
completeness	involves the inclusion of all revenues and expenditures in the respective budgets
justification	budgets are formed based on substantiated calculations of revenues and expenditures, relying on previously established macroeconomic indicators of the country's development
efficiency and effectiveness	refers to achieving maximum results in reaching set goals during the formation and implementation of budgets using minimal resources
subsidiarity	involves the distribution of expenditures by type between the state and local budgets
targeted use of budget funds	refers to the strict allocation of budget funds to their intended purposes
fairness and impartiality	involves the honest and objective distribution of public goods within the country
publicity and transparency	involves the publication of all actions and their results within the budget process, as well as the comprehensive accountability of the process

Source: compiled by the author based on [1]

Let's turn to the principles of the budgetary provisions of the European Union, which serves as a benchmark for Ukraine. Thus, the EU budget positions are regulated by a set of the following EU legal acts [3, 4, 19, 20]: Treaty on the Functioning of the European Union; Treaty on the European Union; EU Financial Regulations; other EU legislation. Regarding EU budgetary principles, Regulation (EU, EURATOM) 2018/1046 of the European Parliament and of the Council of July 18, 2018 on financial rules applicable to the general budget of the Union amending Regulations (EU) № 1296/2013, (EU) № 1301/2013, (EU) № 1303/2013, (EU) № 1304/2013, (EU) № 1309/2013, (EU) № 1316/2013, (EU) № 223/2014, (EU) № 283/2014 and Decision № 541/2014/EU and repealing Regulation (EU, Euratom) № 966/2012 fixed as follows their totality [21]: unity, budgetary accuracy, annuality, balance, accounting unit, universality, specification, sound financial management and performance, transparency. An analysis of these principles in terms of their substantive content has been carried out by a team of scholars under the supervision of S.Svirko. Therefore, it is sufficient to note here that the fundamental difference between the EU's and Ukraine's budgetary principles lies primarily in the inclusion, within the EU framework, of the principle of sound financial management and performance [16].

As noted by the team of authors led by S.Svirko, «the principle of sound financial management and performance establishes three fundamental tenets regarding the use of appropriations: economy (quantitative and qualitative availability, as well as price optimality of resources used by each EU institution or body in the course of its activities), efficiency (achieving the best ratio between the resources used, the activities carried out, and the achievement of objectives), and effectiveness (maximally achieving the intended objectives through the measures undertaken). Productivity in the use of appropriations is ensured through pre-defined goals of programs and measures; the progress toward those goals is monitored using performance indicators, and information about this is reported to the European Parliament and the Council. The elements of such sound financial management include: monitoring and evaluation of programs and measures, accounting support in the form of mandatory financial justification for any proposal or initiative that may affect the budget, and internal control over budget execution» [16].

As indicated by the substantive analysis, this principle in some ways overlaps with the principle of efficiency and effectiveness, but it is more comprehensive and far-reaching in both time and scope. Moreover, this principle directly corresponds with the principles of good governance, particularly the sixth substantive component: «Public Finance Management».

It should be noted that, according to the thesaurus established in Article 2 of the Budget Code of Ukraine, budgetary terminology includes the following two terms [1]:

- «Management of budget funds – a set of actions performed by a participant in the budget process in accordance with their powers, related to the formation and use of budget funds, and the exercise of control over compliance with budget legislation, aimed at achieving the goals, tasks, and specific results of their activities and ensuring the efficient, effective, and targeted use of budget funds;
- Budget funds (funds of the budget) – revenues and expenditures of the budget that belong to it in accordance with the law».

In the context of the above and taking into account the definition of the term «budgetary principle» provided by the team of authors led by S.Svirko (which is proposed to mean the fundamental organizational and methodological foundations of the budgetary system and the budget process on which they are built [15]), it is proposed to amend the Budget Code of Ukraine by replacing the term «principles of the budgetary system» with «budgetary principles», and to substitute the principle of efficiency and effectiveness with the principle of sound management of budget funds and productivity. Additionally, Chapter 18, «Liability and Measures for Violations of Budget Legislation» of the Budget Code of Ukraine should include provisions on liability for non-compliance with the principle of sound management of budget funds and productivity.

It is also necessary to clarify issues of public finance, which include the State and local budgets, in particular the management of the latter.

At one time, in the context of global integration processes in Ukraine in general and European integration processes in particular, the modernization of the public finance management system was initiated, which has been ongoing for almost 20 years. All steps along this path were the result of corresponding state administrative decisions and were formalized in the form of orders of the Cabinet of Ministers of Ukraine and an international agreement, namely [9-13, 17]:

- On approval of the Strategy for Modernization of the Public Finance Management System: Order of the Cabinet of Ministers of Ukraine dated October 17, 2007, No.888 (in effect);
- Loan Agreement (Public Finance Modernization Project) between Ukraine and the International Bank for Reconstruction and Development (March 25, 2008), ratified by the Law of Ukraine No. 591-VI dated September 24, 2008;
- On approval of the Concept for the Development of the Public Finance Management System: Order of the Cabinet of Ministers of Ukraine dated September 3, 2012, No. 633 (in effect);
- On the Strategy for the Development of the Public Finance Management System: Order of the Cabinet of Ministers of Ukraine dated August 1, 2013, No. 774-r;
- On approval of the Strategy for Reforming the Public Finance Management System for 2017–2020: Order of the Cabinet of Ministers of Ukraine dated February 8, 2017, No. 142 (in effect);
- On approval of the Strategy for Reforming the Public Finance Management System for 2022–2025 and the plan of measures for its implementation: Order dated December 29, 2021, No. 1805 (in effect).

The 2007 Strategy outlined the goal, preconditions, and principles of public finance management system modernization, its objectives, as well as the ways of implementing such modernization and its expected outcomes, against the backdrop of the declared «fundamental importance of an effective public finance management system for ensuring the stability of the national budget system, overall financial security, and sustainable economic growth» [11].

The 2012 Concept described the problems of the public finance management system, the goal and timeline for implementing the given Concept, the main directions of development, the ways and methods of addressing existing problems, the expected outcomes, and the means of implementation [10].

The 2013 Strategy for the Development of the Public Finance Management System contains a fairly detailed description of the situation, identification of problems, objectives and measures, expected outcomes, and risks for each of the Strategy's directions, which are listed in its general provisions. The general provisions of the Strategy also state that [9]: «The public finance management system in Ukraine is the foundation for ensuring the sustainable development of the country and the guaranteed fulfilment of social obligations to citizens. Public finances have strategic importance for regulating, in particular, the real sector of the economy and the financial sector, ensuring regional development, supporting entrepreneurial activity, and their potential forms the basis of Ukraine's economic and social development. The effectiveness of the public finance

management system is crucial for ensuring the stability of the budgetary system, as well as overall financial security and sustainable economic growth. The public finance management system includes a number of elements, in particular the state budget, local budgets, extra budgetary funds, and the finances of the state corporate sector». It should be noted that the presented rather general description cannot be regarded as a clearly formulated definition of either «public finance management» or the «public finance management system», and the last sentence, in which the elements of the public finance management system are incorrectly identified as the state budget, local budgets, extra budgetary funds, and the finances of the state corporate sector – which are elements of public finance – generally raises doubts about the appropriateness of including this sentence in the Strategy due to its inaccuracy. At the same time, this Strategy establishes a provision which essentially contradicts the aforementioned sentence regarding the composition of the public finance management system, namely [9]: «The components of the public finance management system, whose development will be ensured in accordance with this Strategy, include: the tax system; medium-term budget forecasting, medium-term budget planning, the program-target method, strategic planning at the level of ministries and other main budget holders; liquidity management of public finances and public debt; quasi-fiscal operations; the accounting system in the public sector; the public procurement system; public investments; internal public financial control; independent external financial control; anti-corruption; public access to budget information».

The 2017 Strategy for Reforming the Public Finance Management System contains a description of the economic situation, the state of development of the public finance management system (which states that «building an effective and competitive national economy requires a systemic reform of public finance management as part of the overall public administration system, the problems and inconsistencies of which pose a serious risk to the recovery of economic growth. An effective public finance management system is the foundation for implementing state policy and achieving strategic development goals by ensuring overall budgetary discipline, strategic allocation of budget funds, and the effective delivery of public services» [12]), the main results of previously implemented reforms, the goals and key objectives of the Strategy, the procedure for coordinating and monitoring the implementation of the Strategy, as well as the means of achieving each of the defined objectives in the respective areas [12].

The 2021 Strategy for Reforming the Public Finance Management System, in turn, notes at its outset that «the implementation of structural economic reforms and the task of accelerating the socio-economic development of Ukraine, including ensuring the transition to a resource-efficient, socially inclusive economy, are impossible without the effective functioning of the public finance management system» [13], and contains a description of the Strategy's goal, the main results of previously implemented reforms, strategic objectives and indicators, expected outcomes and implementation risks, financial support, coordination, monitoring, and assessment of the Strategy's implementation status [13]. It is noteworthy that none of the reviewed documents contain a single definition of the concept of «public finance management» or the «public finance management system» (nor, for that matter, do other regulatory legal acts of domestic legislation) [14].

To address a significant number of gaps in the field of public finance management, which is crucial in the context of good governance, it is proposed to develop the Law «On Public Finance Management in Ukraine». Its structure should include the following articles:

- Article 1. General provisions on public finance management (concept, purpose, principles, functions and objectives);
- Article 2. Legal and regulatory framework in the field of public finance management;
- Article 3. Objects of public finance management;
- Article 4. Subjects of public finance management;
- Article 5. Powers of the Verkhovna Rada of Ukraine in the field of public finance management;
- Article 6. Powers of the Cabinet of Ministers in the field of public finance management;
- Article 7. Powers of the central executive authority responsible for the formation and implementation of state policy in the field of public finance management;
- Article 8. Powers of other management bodies;
- Article 9. The public finance management system and its elements;
- Article 10. Planning and forecasting in the public finance management system;
- Article 11. Accounting and control in the public finance management system;
- Article 12. Organization and motivation in the public finance management system;
- Article 13. Public participation in the public finance management system;
- Article 14. Oversight of the public finance management system;
- Article 15. Liability for violations of legislation in the field of public finance management;
- Article 16. Final provisions.

The development and adoption of such a Law will contribute to the regulation of public finance management issues and, consequently, ensure the effective functioning of the public finance management system.

Regarding financial control, let us recall that the recommendations of the European Commission provide for [18]: achieving higher quality of internal audit in the public sector through the full application of updated international internal audit standards, along with strengthening the role of the Central Harmonization Unit; further enhancement and development of the independence, capacity, effectiveness (efficiency, effectiveness, and productivity), and autonomy of the Accounting Chamber, with these provisions to be enshrined in a new law on the institution; strengthening oversight of the state budget through closer cooperation between the Verkhovna Rada and the Accounting Chamber; and «improvement of the public financial control system in accordance with international standards and best EU practices, as well as the obligations set out in Ukraine's Action Plan».

Regarding both the international standards of supreme audit institutions (ISSAI) and the global internal audit standards (GIAS), it is proposed that they be fully implemented in Ukraine's audit practice, with corresponding provisions enshrined in the legal and regulatory framework of the national audit system.

Concerning the Law of Ukraine «On the Accounting Chamber», significant amendments aimed at fulfilling the above-mentioned objective were introduced by the Law of Ukraine «On Amendments to the Law of Ukraine «On the Accounting Chamber of Ukraine» and Certain Other Legislative Acts» [6, 8].

Regarding public financial control, it should be noted that the regulatory document governing its provisions – the Law of Ukraine «On the Basic Principles of Public Financial Control in Ukraine» – was adopted back in 1993 and has long needed amendments [7].

An analysis of this law reveals the following clear gaps:

- the absence of a proper definition of «public financial control»;
- the lack of a stated purpose for public financial control (Article 2 only specifies its objectives);
- the absence of a detailed list of public financial control tasks (in the context of types of public financial control);
- the lack of principles of public financial control (with detailed descriptions of their characteristics);
- the absence of a correct classification of the types of public financial control; this refers to the undefined and missing correlation between internal control and internal audit with public financial control (this gap stems from Article 26 «Control and Audit in the Budget Process» of the Budget Code of Ukraine, according to which: «internal control is a set of measures based on managerial responsibility and accountability, applied by the head to ensure compliance with legality and the effective use of budget funds, achievement of results according to the established purpose, objectives, plans, and requirements regarding the activities of the budget holder and enterprises, institutions, and organizations within its management sphere; internal audit is an independent, objective activity involving audit research (assurance evaluation) and audit consulting to assist the budget holder in achieving the goals, objectives, and specific results of its activities. Internal audit promotes improvement in the efficiency and effectiveness of the budget holder's activities, as well as those of enterprises, institutions, and organizations within its management sphere, by applying a systematic, consistent approach to evaluating and improving the organization and functioning of the management system, internal control, and risk management») [1];

- the absence of a correct composition of the subjects of public financial control (Article 1 of the Law states that the public financial control body is authorized by the Cabinet of Ministers of Ukraine to implement state policy in the field of public financial control, while Article 2 specifies that «public financial control is ensured by the public financial control body through the conduct of public financial audit, inspection, procurement checks, and procurement monitoring,» and, in turn, the Law of Ukraine «On the Accounting Chamber» states that [8]: «The Accounting Chamber is the highest state collegial body of financial control (audit)» (Article 1); «public external financial control (audit) is ensured by the Accounting Chamber through the implementation of financial audit, performance (efficiency) audit, compliance audit, examination, analysis, and other control measures» (Article 4));

- the absence of a defined composition of the objects of public financial control;
- the lack of identified legislation in the field of public financial control;
- the absence of methods and means for conducting public financial control;
- the lack of provisions regarding the materials of financial control activities and their further implementation;
- the absence of provisions concerning public participation in public financial control;

Based on the above, the following structure is proposed for the new Law of Ukraine «On Public Financial Control in Ukraine»:

- Article 1. Thesaurus of public financial control;
- Article 2. Purpose of public financial control;
- Article 3. Objectives of public financial control;
- Article 4. Principles of public financial control;
- Article 5. Types of public financial control;
- Article 6. Subject matter and objects of public financial control;
- Article 7. Subjects of public financial control;
- Article 8. Scope of activity of primary subjects of public financial control;
- Article 9. Scope of activity of secondary subjects of public financial control;
- Article 10. Legislation in the field of public financial control;
- Article 11. Means of public financial control;
- Article 12. Methods and methodological techniques of public financial control;
- Article 13. Coordination of actions among subjects in the process of public financial control;
- Article 14. Results of financial control measures;
- Article 15. Liability for violations of legislation in the field of public financial control;
- Article 16. Final provisions.

The formulation of such structural provisions in the Law of Ukraine «On Public Financial Control in Ukraine», followed by its adoption, will ensure the necessary updating of the fundamental legal and regulatory framework of public financial control in line with European approaches. Consequently, this will contribute both to Ukraine's accelerated European integration and to improving the efficiency of the use of budgetary funds and state property.

Conclusions and prospects for further research. Improving the legal mechanism of public administration of the European integration process in Ukraine based on the developed financial-budgetary and financial-control provisions will contribute to

the accelerated alignment of Ukraine's budgetary legislation with EU law and, accordingly, will expedite the country's accession to the European Union. Further research on the legal mechanism of public administration of the European integration process in Ukraine should be directed toward other problematic areas of the EU screening process, primarily the ability to compete in the EU market, social policy, and employment.

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