

CLASSIFICATION PROBLEMS OF THE SUBJECTS OF THE BUDGETARY LEGAL RELATIONS

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In our opinion it is possible to single out general, special (specific) and initial subjects of the budgetary legal relations. The general object of the budgetary legal relations is budgetary funds, for their reasons the legal relationships of the subjects of the budgetary legal relations arise. Even in rule-making budgetary legal relations, the object of which is law or resolution on budget, legal relation arising for the reasons of the act on budget, in final result indirectly concerns budgetary funds. Special (specific) objects are so called «tangible and intangible weal», although the usage of the term «weal» in budgetary law is rather conditional. Budgetary-legal acts, budgetary funds, reports on budget execution and so on can be these objects depending on the type of the budgetary legal relations. Tangible or intangible result of an action should be deemed as initial objects. Thus in legal relations of the draft consideration on the State budget of Ukraine in first reading conclusions and proposals are voted as a whole. So the question arises what should be recognized as the object of legal relations: voting (action), conclusions and proposals («intangible weal»), their approval or rejection (result of the action)? In our opinion actions can't be the object of the legal relations as they are regulated by the budgetary-legal norms and are the object of the legal regulation. The duty of the Verkhovna Rada of Ukraine is voting on them (object of the subjective budgetary right-duty), conclusions and proposals are also not the object of legal relations, they are the subject which the Verkhovna Rada of Ukraine work with, but in other legal relations they can be the object. The object of these legal relations is the result of the action (the voting result), the subject's behavior is aimed at it – decision on approval or disapproval of conclusions and proposals; depending on this the further development of the budgetary legal relations is realized.

Special (specific) object of the budgetary legal relations is not an aggregate of the initial objects, but a new quality, result that is the consequence of the consecutive change of the initial objects of the budgetary legal relations and the transfer of an accumulated quantity into a new quality. For example, we have a new quality in the legal relations at the stage of the consideration and passing the Law on the State budget of Ukraine as the result of the consecutive change and accumulation of the initial objects: draft of law becomes the Law on the State budget of Ukraine.

Each subject of the budgetary legal relations comes into relationship not aimlessly, but with the aim of achieving the result – meeting the public interest with budgetary funds. Public interest is always connected with the budgetary funds and is specified by their formation and distribution with further allocation and usage. Forming budget income, the public interest, which is transformed into official interest of the authorized subjects of the budgetary legal relations, is not only in obtaining funds in the amount stipulated by the act on budget but in the overfulfilment of the indicators of the income part of the budget with the aim to enlarge further amounts of budget expenditures. In financing the budget expenditures the public interest is in the budget satisfaction of as far more as possible amount of the public needs. Taking into account that needs are always unlimited and can not be fully satisfied by the budget funds, the aim of the budget financing is the satisfaction of the most important and recognized public needs, that is why any budgetary legal relations are established with the necessity of expenditures financing and they are concentrated around them. This is possible if other subject creates corresponding opportunity of the budgetary expenditures financing, that is the subject properly performs the duties relating to transferring of monetary funds to budgets in order and terms stipulated by the law.

Passing incomings to the budget and the execution of the budgetary expenditures is carried out as the result of an interdependent behavior of subjects. This behavior, being a certain aggregate of consequent actions, is goal-seeking and anticipates achieving the result – the budget in its tangible meaning, its budgetary funds. Therefore the budgetary funds can be considered as a tangible result of the subjects' actions; these actions are carried out in certain succession and form their behavior within appropriate subjective budgetary rights and duties.

The result of the intellectual activity of the subjects of the budgetary legal relations is so called products of intellectual creative work. The Law on the state budget, decisions on the local budgets, which are the results of the intellectual activity of subjects at the stage of preparation, consideration and passing acts on budgets, can be deemed as the products of intellectual creative work. After passing, these budgetary-legal acts are executed by means of successive actions as to providing incomings and their placing to the budget with the aim of further allocation for financing recognized public needs. Public interest of subjects relating to the acts on budget is caused by the fact that these acts determine the indicators of the revenues and expenditures of budgets. These acts are not only «the products of intellectual activity» but official documents also. Thus the classification of the objects of the budgetary legal relations at the second stage can come to the following: the objects of the budgetary legal relations single out tangible and intangible «weal» that are the results of the subjects' actions of these legal relations. Tangible and intangible weal as the object of the budgetary legal relations are also divided into types: tangible weal (budgetary funds) – revenues and expenditures of budget, and intangible weal – budgetary-legal acts, reports on budget execution and so on.

This classification is not very good in terms of bringing it to a single criterion, but it allows analyzing individual budgetary-legal phenomena, which together constitute the system of the objects of the budgetary legal relations.

Summing up everything above said, the objects of the budgetary legal relations can be considered tangible and intangible weal, the results of the actions which give rise to the legal connection between the subjects of the budgetary legal relations, determined by public interests of the budget security of recognized public needs within their judicial personality.

ЩОДО ПРОЦЕСУАЛЬНОЇ СУТНОСТІ КАТЕГОРІЇ «ДОКАЗИ» У СПРАВАХ ПРО ПОРУШЕННЯ ФІНАНСОВОГО ЗАКОНОДАВСТВА

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Доказами в адміністративному судочинстві є будь-які фактичні дані, на підставі яких суд встановлює наявність або відсутність обставин, що обґрунтовують вимоги і заперечення осіб, які беруть участь у справі, та інші обставини, що мають значення для правильного вирішення справи. Ці дані встановлюються судом на підставі пояснень сторін, третіх осіб та їхніх представників, показань свідків, письмових і речових доказів, висновків експертів (ст. 69 Кодексу Адміністративного судочинства України) [1]. Якщо розкласти це визначення на складові можна побачити, що законодавець сприймає докази як: фактичні дані; отримані виключно у законному порядку; які є підґрунтям для діяльності учасників судового процесу; мають значення для справи; сприяють її правильному вирішенню.

Щоб у повній мірі зрозуміти сутність категорії «докази» розглянемо її складові більш детально. І почнемо із такого елементу як «фактичні дані». Вчені не дійшли до єдиної думки відносно того, що вважати фактичними даними. Одні автори вважають, що законодавець під