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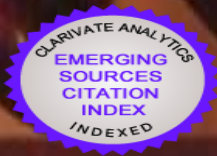
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**ADMINISTRATIVE AND LEGAL STATUS
OF SUBJECTS OF THE STATE'S FINANCIAL
SYSTEM MANAGEMENT: INNOVATIVE
STANDARDS AND SYSTEM MODERNIZATION IN
UKRAINE**

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Abstract

The relevance of this article is due to the fact that the development of economic relations and the emergence of new socio-economic conditions of public life began the thorough identification of the subjects of management of the Ukrainian financial system. The purpose of the article is to conduct research on the functioning of the system of financial system management in Ukraine and the world. The results of this study are a comparative legal analysis of the construction of a system of entities by the financial system of Ukraine, the study of the peculiarities of such formation and the selection of positive foreign experience for Ukraine. The significance of the obtained results is reflected in the fact that this study can serve as a basis for outlining future changes to the current legislation of Ukraine on the functioning of the subjects of management of the financial system of Ukraine.

Keywords: Financial system, financial system management, financial system management entities, foreign experience of state financial system management.

I. Introduction

According to many representatives of economic science, the financial system includes the following components: the state budget, extrabudgetary funds, insurance funds, the stock market, the finances of

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organizations of various forms of ownership, state credit, bank credit. Thus, most economists define the financial system of the country as the totality of money, financial markets (currency, money, capital) and financial institutions (private and public). Some researchers in the field of economics recognize that the financial system is a system of forms and methods for the formation, distribution and use of funds of the state and organizations. Some scientists believe that in economic theory the financial system should be understood as the totality of various spheres of financial relations where the funds are formed and used. In our opinion, such approaches to the definition of the concept of a country's financial system are one-sided and distract from a comprehensive economic and legal study of this concept. When considering the financial system of Ukraine in terms of its essence and structure, first of all, it is necessary to pay attention to such aspects of its functioning as economic, material and legal, under the influence of which the content of this category is constantly changing

Ukraine's financial system has numerous problems that hinder its development. One of the reasons for these problems is the imperfect functioning of the financial management of the state. The need for the proper functioning of the system of financial bodies and institutions in Ukraine today is an extremely important and relevant measure because it depends on both the efficiency and stability of Ukraine's economy (Lohvynenko & Bulakh 2016). In this case, Y.V. Harust argues that the implementation of any functions of the state is impossible without the activities of mobilization, distribution and use of centralized and decentralized funds, carried out within the financial system (Harust et al.

2019a). Thus, the effectiveness of the above-mentioned activities depends on how effectively the financial system is managed, during which the relevant legal relations arise, develop, change and terminate. One of the fundamental components of any legal relationship, including those related to the management of the financial system are their subjects. Without the activity of the subjects of management of the financial system authorized by the current national legislation, the emergence of these legal relations, and, consequently, the proper performance of any state functions is impossible.

The problem of efficiency of financial system management is extremely important for each state, because the correctness of this issue depends on the effectiveness of the financial system management and the stability of the economic situation in each state (Harust et al. 2019b). Along with this, the right choice of management model will ensure the best management of the financial system as a whole. In this regard, it is appropriate to believe that the existence of a perfect financial system for any state is a key condition for the efficient functioning of its economy (Kravchuk 2006). The financial system is extremely complex in terms of the internal structure of the financial structure, under the condition of effective construction of which the balance of interests and contradictions of financial policy and economy is realized. At the same time, the process of forming optimal financial systems is quite time-consuming and complex (Zabediuk 2015).

II. Methodology

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The following methods were used in the research process: general theoretical (analysis, synthesis, concretization, generalization, method of analogy, modelling); empirical methods (research of experience of management of financial system in Ukraine and abroad, research of normative-legal and scientific-methodical literature on the given question, scientific researches and conclusions). In the process of studying the subjects of management of the financial system of the state, the following scientific methods were used: logical method, which was the basis of the general conclusions of the study to outline the administrative and legal status of the subjects of management of the state's financial system; comparative-legal method used in the study of similar institutions in the world's leading countries and the peculiarities of their functioning; system-structural method is used in the analysis of key scientific achievements on this topic in Ukraine, our own conclusions and inferences are provided (Kovaliv 2017).

Examining the issues of subjects of financial system management, we consider it necessary to pay attention to the essence of the concept of "subject" from a legal point of view, because in scientific and legal circles there is duplication and formation of two different categories: "subject of law" and "subject of legal relations", which, at first glance, are similar categories, but still have many differences. The main difference between the above-mentioned concepts, as noted by L.I. Myskiv (2008) is that the subject of law in a particular case may not be a party to the legal relationship and has only the potential to enter into it, for which he is endowed with objective law with the appropriate legal personality. Thus,

T.A. Kobzieva (2015), while speaking about the subjects of financial system management, points out that in this case the subjects of legal relations (its real participants), and not the subjects of law, are meant. Let us mention the main approaches to the perception of the concept of “subjects of legal relations”, which are found in scientific and legal circles (Harust et al. 2019a).

III. Results and discussion

In Ukraine, the issue of financial system management is extremely relevant and debatable (Manzhula et al. 2019; Harust et al. 2019b; Shostakovskiy 2016; Sokolovska 2015). There are two key elements in the management of the financial system – the object and the subject of management. And if the object of management is clear – financial relations, the subject of management has a number of inconsistencies. Traditionally, the subjects of management are the state and financial services of enterprises, organizations and institutions. Their main task is to ensure coherence in the functioning of individual areas and parts of financial relations. This is achieved through a clear division of functions and powers between financial authorities and institutions. As for the financial bodies and institutions that form the organizational structure of the financial system, in the economic literature they are grouped in different versions into separate blocks depending on the specifics of the activity and role in financial management. In fact, they are the subjects of the management of the financial system, which are purely financial bodies.

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The key subjects of government are traditionally the President of Ukraine, the Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine.

However, based on the fundamental provisions of the Constitution of Ukraine, Y.V. Harust states that the parliament and the government manage the finances on behalf of the state. That is why these institutions are the key actors in the management of Ukraine's financial system. The Constitution of Ukraine states, that in accordance with Article 92, "Only the laws of Ukraine determine the State Budget of Ukraine and the budget system of Ukraine, the taxation system, taxes and fees, the principles of creation and functioning of financial, monetary, credit and investment markets, the status of national currency and the status of the foreign currencies on the territory of Ukraine, the procedure for formation and repayment of public domestic and foreign debt, the procedure for issuance and circulation of government securities, and their types".

In accordance with Article 75 of the Constitution of Ukraine, "the only body of legislative power in Ukraine is the Parliament – the Verkhovna Rada of Ukraine". According to Article 85 of the Constitution of Ukraine, "the powers of the Verkhovna Rada of Ukraine include:

- 1) adoption of laws;
- 2) approval of the State Budget of Ukraine and amendments thereto, control over the execution of the State Budget of Ukraine, decision-making on the report on its execution;
- 3) defining the principles of domestic and foreign policy;

4) approval of national programs of economic, scientific and technical, social, national and cultural development, environmental protection;

5) exercising control over the activities of the Cabinet of Ministers of Ukraine in accordance with this Constitution and the law;

6) approval of decisions on granting loans and economic assistance to foreign states and international organizations by Ukraine, as well as on obtaining loans, not provided for in the State Budget of Ukraine, by Ukraine from foreign states, banks and international financial organizations, as well as the control over their use.

Article 113 of the Constitution of Ukraine stipulates that the Cabinet of Ministers of Ukraine is the highest body in the system of executive bodies and is responsible for the activities of state bodies in the field of filling and effective distribution and use of centralized and decentralized state funds. The main task of this subject of the financial system is the effective functioning of the state, aimed at the development of society and the provision of urgent state needs at different stages of its development”. Thus, in accordance with the requirements of Article 116 of the Constitution of Ukraine, “The Cabinet of Ministers of Ukraine:

1) provides financial, pricing, investment and tax policies, policies in the fields of labour and employment, social protection, education, science and culture, nature protection, environmental safety and nature management;

2) develops and implements national programs of economic, scientific-technical, social and cultural development of Ukraine;

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3) provides equal conditions for the development of all forms of ownership, manages state property in accordance with the law;

4) develops a draft law on the State Budget of Ukraine and ensures the implementation of the State Budget of Ukraine approved by the Verkhovna Rada of Ukraine, submits a report to the Verkhovna Rada of Ukraine on its implementation (Harust et al. 2019c).

M.I. Lohvynenko also adds the Ministry of Finance of Ukraine, the State Fiscal Service of Ukraine, the State Audit Office of Ukraine to the main subjects of management of the financial system of Ukraine (Lohvynenko & Bulakh 2016). However, Y.V. Harust believes that it is inappropriate to exclude the Accounting Chamber, the State Commission for Regulation of Financial Markets, the State Commission on Securities and Stock Market from the circle of the main subjects of management of the financial system of Ukraine. Thus, the researcher includes them to the key subjects of management, focusing on their exclusive functions and powers in this area (Panchenko et al. 2020).

M.I. Lohvynenko points out that more ancillary functions, but no less important for the financial system, are performed by trust fund management bodies, such as the Pension Fund of Ukraine, the Fund of Compulsory State Social Insurance in the event of unemployment, the Fund of Compulsory State Social Insurance on case of temporary disability and expenses due to burial, the Fund of Compulsory State Social Insurance against accidents at work and occupational diseases that caused

disability, and financial institutions, such as the National Bank of Ukraine, commercial banks, non-bank financial institutions, insurance companies, currency and stock exchanges, etc. These bodies should provide financial support to all parts of the country's public life (Lohvynenko & Bulakh 2016).

In our opinion, analysing the problems of management of the financial system of Ukraine and the formation of the basic subjects of such management should begin with acquaintance with the structure of the governing bodies of the financial system in foreign countries. The specificity of the German financial system is due to its territorial and political system – it is a federal parliamentary republic. Depending on which aspect of the financial sphere is in question, namely the budget process or the management of the financial services market, the following main subjects of the mechanism of management of the national financial system of Germany can be distinguished:

1) the main role in the budget process is played by such authorities and their structural subdivisions:

a) The Ministry of Finance and the government, which submits the draft budget to Parliament. In addition, in Germany, along with the Ministry of Finance, there is the Federal Office of Finance and the Federal Public Debt Administration, which are accountable to the Federal Ministry of Finance (Ter-Minassian 1995);

b) representative bodies: Bundesrat (preliminary consideration and approval of the draft law on the budget); Bundestag (approves the draft budget); Reporting subcommittee (participates in the budget execution audit); The Federal Chamber of Accounts (exercises control over certain

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areas of budget execution); The Federal Treasury (it may inspect the work of the Ministry of Finance).

2) at the level of individual subjects of the federation, the budget process is managed by:

- a) local representative authorities;
- b) local executive authorities;
- c) members of the public (Kobzieva 2018).

One of the countries characterized by a stable financial system and effective cooperation of public authorities in financial activities is France. It should be noted that France, having a bicameral parliament – the Senate and the National Assembly, carries out the implementation of financial laws and the implementation of public policy by both houses of parliament and the President of France, who has considerable powers in determining financial policy. As for the financial system, France as a unitary state has a two-tier system, taking into account national and local finances. The financial system includes the following links: central (state) budget, local budgets, special funds and finances of state enterprises. A feature of the French financial system is the creation and operation of a whole system of special purpose funds, special accounts and attached budgets, some of which are in the budget, and others are extra budgetary. All of them are to some extent legally and organizationally independent and have their own sources of income (Yurii 2008).

Note that France does not have a special body to manage finance, i.e. the Ministry of Finance as a separate body, and the function of implementing public financial policy is entrusted to the Ministry of

Economy, Finance and Budget (Shartava et al., 2019; Harust et al. 2019c). This body combines various functions in the field of finance, including: direct implementation of financial policy in the state, control over various financial transactions, certain control functions in the direct implementation of financial policy by lower authorities, etc. Along with this, M. Shostakovskiy notes that a characteristic feature of financial management in France is that in this country there are a large number of bodies, which are responsible for the implementation of direct financial policy and financial control. In particular, the peculiarity of the management of financial activities in France is that such management is carried out by the highest authorities (Shostakovskiy 2016).

The above mentioned is confirmed by the opinion of N.Y. Melnychuk, who notes that in France, in addition to the Ministry of Economy, Finance and Budget, there is an administrative inspection, which carries out three inter-ministerial inspections: General Inspectorate of Finance, General Inspectorate of Administration, General Inspectorate of Social Affairs. In addition, such scholars as the commission on finance, economy and planning (National Assembly) and the commission on financial and budgetary control (Senate), the commission on financial transparency of political life, which controls the declaration of income of participants in political life – mostly civil servants (Melnychuk 2015). Noteworthy is the country representing the Anglo-Saxon legal system, namely Great Britain, which is a constitutional monarchy. The public finance system of this country consists of autonomous units:

- 1) the budget of the central government (consists of the regular budget, from which mainly current expenditures are made,**

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and the National Loan Fund, which reflects the operations of the state of investment nature to obtain loans and provide loans) (Vasylieva et al. 2018);

- 2) local budgets (represented by the budgets of counties and districts, which provide integrated development of territories);
- 3) special extra-budgetary funds;
- 4) finances of state corporations (Kobzieva 2018).

In the United Kingdom, financial management is carried out by the State Treasury, which combines the functions of the Ministry of Finance and the Ministry of Economy. The State Treasury is headed by the Chancellor, and along with it the financial activities are managed by the Treasurer General, the Secretary of Finance (First Deputy Minister), the Parliamentary Secretary and 5 Lord Commissioners. In contrast to Ukraine, there is also a specialized body in the United Kingdom, which is responsible for public debt management – the UK Debt Management Agency (Shostakovskiy 2016). Examining the powers of the UK Debt Management Agency, Y. Ivanenko defines the following functions, namely:

- management of public cash balances;
- operational deposit management;
- administration of other government obligations on loan and investment guarantees;
- management of services for the purchase and sale of securities, etc.

It functions as part of the institutional structure of public debt management in the UK. The creation of a separate Agency was accompanied by a clear division of monetary policy and debt management functions so that short-term monetary policy decisions do not affect its implementation (Ivanenko & Mamyshev 2008).

As part of the UK Government, the main role in the financial policy of the country belongs to the Treasury: it is responsible for formulating and implementing the government's financial and economic policies. The aim of its activities is to ensure sustainable economic growth, increase welfare and improve the quality of life of people by expanding economic opportunities and maximum employment: development and implementation of financial services policy, taking into account financial stability, urban competitiveness, wholesale and retail markets of the UK, Europe and international markets, cooperation with the Office for supervision and regulation of financial services; assisting the Minister of Finance of the United Kingdom in organizing cooperation with the Treasury, the Bank of England and the FSA; support for banks, responsibility for the organization of work on capital protection, the activities of the Recapitalization Fund, lending agreements and responsibility for British Financial Investments (UKFI); formation of foreign exchange reserves, development and implementation of debt management policy, control over the activities of the National Department for Savings, Investments and Debt Management (Naumenkova 2010; Kizyma & Kravchuk 2013).

In general, the UK's experience in financial management shows that multiple subjects of regulation are not necessary for high-quality and

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efficient financial management. The attribution to the competence of one governing body of all or most of the main aspects of the organization and functioning of the financial sphere has a number of positive aspects:

- consolidation of resources and optimization of their use;
- streamlining and organizational strengthening of the financial management mechanism;
- reducing bureaucratization and paperwork;
- elimination of duplications and gaps in the powers of control and supervisory bodies in the financial sphere, etc.

At the same time, the experience of the United Kingdom is a clear example of the fact that the creation of mega-regulators does not always lead to the expected results and provides the necessary level of quality and effectiveness of financial policy in countries (Kobzieva 2018). The next country that deserves attention is Canada, which is a federation, and in the form of government – a constitutional monarchy and parliamentary democracy. As for the budget system of this country, it consists of the following levels:

- federal budget;
- provincial budgets (12 provinces);
- budgets of local authorities.

As for the federal budget, it finances military spending, much of the cost of regulating the economy, maintaining the government administration, and health care and social security. Such a budget contains the revenue parts of state-owned enterprises and the state social

insurance system. In its turn, the budgets of the provinces and local authorities are the main source of funding for capital investments (mainly in infrastructure), and are also used to support education and training, medical care. A very important role in financial management is assigned to the Ministry of Finance of Canada. It develops financial sector policies and provides advice to the Government of Canada on ensuring the proper functioning of the economy to ensure financial stability, high employment and the well-being of all citizens. At the same time, it carries out:

- preparation of regulations for Canadian banks and other financial institutions;
- development of policy on international finance and tariff policy;
- monitors the economic and financial situation in Canada, provides strategic advice on a wide range of financial and economic issues (Ehorova 2012).

As we can see, Canada has a fairly extensive financial governance mechanism, but it is not overly bureaucratic and thoroughly corrupt (Kobzieva 2018; Kovbasiuk 2010).

The functioning system of federal finances of the USA consists of the following elements:

- 1) federation finances – include the federal budget, the District of Columbia (capital) budget, special funds of the federal level, the finances of state corporations;
- 2) finances of 50 states, each with its own budget, special funds and finances of state-owned enterprises;

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3) local finances, consisting of local budgets (counties and other local administrative units, including counties, municipalities, cities), utilities finances, various funds (Kizyma & Kravchuk 2013).

The peculiarity of the financial system of the United States of America is that from the very beginning it developed on the basis of market principles by creating its own institutions and appropriate methods of their functioning. A characteristic feature of the financial system of this country is the tendency to increase the level of self-regulation. This is determined by the large number and reliability of financial instruments. Currently, the financial system of the above-mentioned state has reached a high level of development and has become a fundamental basis of the country's economy, which provides an opportunity for dynamic development and overcoming the crisis (Vynohradnia 2013).

The structure of the financial system of the United States of America determines the functioning of a wide range of entities. An important place in the management of such a system is occupied by the Congress of the United States of America, consisting of two chambers: Senate and House of Representatives. According to the Constitution, the Senate consists of two representatives from each state. The number of members in the House of Representatives is proportional to the population and is therefore not limited by the Constitution. Each House of Congress has the right of legislative initiative on all matters except financial bills; the latter should be proposed in the House of Representatives (Kobzieva 2018). In this case, the Congress of the United States of America in the financial sphere has

the right to: impose and collect taxes, duties, taxes and excise duties equally throughout the country; pay debts; to make loans; mint a coin; regulate the value of the US currency; to establish penalties for counterfeiting government securities and coins.

The main features of the financial system of the United States are:

- rather detailed definition at the constitutional level of the powers of the highest legislative body of the state (Congress of the United States of America) in the financial sphere;**
- active role of the Head of State – President in the formation of the national budget and control over its use (spending);**
- significant autonomy of regional authorities in terms of formation and implementation of financial policy in their jurisdiction (Ehorova 2012).**

As for ways to improve the functioning of management entities in this area, it should be noted that the activities of the Ministry of Finance as one of the main actors in the management of the financial system, is carried out in accordance with the standard “Management of innovative projects and programs. Methodology. MFU 75.1–00013480–29.12.2010”, approved by the order of the Ministry of Finance of Ukraine dated 16.05.2010 No. 598, the purpose of which is the formation of new competencies of the employees who will participate in the implementation of functions, tasks, projects and programs of the said ministry.

An innovative component of the standard is the use of leading management practices of other countries in order to move to results-oriented activities. The standard defines the sequence of actions for

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project and program management, in particular their integration, architecture, strategy, implementation, evaluation, as well as introduces an innovative approach to development and supports continuous improvement in the activities of the Ministry of Finance of Ukraine. At the same time, the general tasks for the central executive bodies, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Finance, are:

- formation of an effective and transparent organizational structure;
- implementation and provision of proper management;
- integration into a single financial management information system.

Conclusions

It is possible to improve the system of citizen management in the civil service in the staff of the Ministry of Finance of Ukraine through the introduction of a new mechanism and procedures for personnel management, in particular:

- profiles of professional competence of civil service positions and the mechanism of their use during the selection for the civil service, evaluation of professional activity and promotion of civil servants;
- ensuring a link between the results of the evaluation of their professional activities and the subsequent completion of the service.

Implementation of these tasks will ensure the application of an innovative approach in public finance management and will promote the introduction of innovative technologies, implementation of infrastructure projects to improve and establish effective teamwork in the above-mentioned body and institutions belonging to its management. As for the coordination of the activities of financial management bodies, it does not actually have a proper administrative and legal framework. As a rule, the legislation only stipulates that one or another subject carries out coordination, however, how it implements it, in what directions and forms, by what methods, in what order – the current regulatory framework does not regulate in more or less detail and content.

In connection with the above mentioned, the administrative-legal and methodological framework for interaction and coordination of financial system management entities in Ukraine should be improved in a way able to ensure their comprehensive, systematic and systemic nature, the maximum level of integration and communication of management entities in this sphere.

The authors propose the following general ways to improve the system of management of the financial system of Ukraine:

- 1) to bring the norms of national legislation in line with international norms and requirements;
- 2) to concentrate coordination of the management of the entire financial system in the hands of one financial body;
- 3) to adhere to the strategies and plans of the authorities in the field of finance;

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4) to improve the interaction and coordination of the activities of the subjects of financial system management at the legislative level by defining a single body on this issue.

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