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## **Analysis of the legal regulation problems in the budget system of Ukraine\*\***

**Summary: 1. Introduction, 2. Materials and methods, 3. Results and  
discussion, 4. Conclusions.**

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### **1. Introduction**

The budget system of Ukraine is one of the key institutions of the financial system in the state. After all, since the establishment of statehood and sovereignty, with financial resources consolidated into a single budget system of Ukraine, the state of Ukraine and the territorial communities perform the functions and tasks entrusted to them, acting as bodies of state power and local self-government. In their activities, they comply with the requirements of Article 19 of the Constitution of Ukraine, which states that "State and local authorities and their officials shall act only on the grounds, within the limits of the authority and in the manner prescribed by the Constitution and the laws of Ukraine". In the budgetary process they act as subjects of management of budgetary funds within the limits of their authority, and in accordance with Article 2, Part 1, Paragraph 12 of the Budget Code of Ukraine, along with other non-profit organisations established by public authorities and local authorities, are recognised as budgetary institutions, which are fully financed by the state budget or local budget, respectively.

After all, the budget system, as an independent unit of the financial system, is the subject of legal regulation of the budget law branch and makes it possible to regulate economic and social processes in the interests of members of society<sup>1</sup>. In today's realities of market globalisation, with

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limited rights of the state to influence the economic components of the country, the role of the budget system as one of the fundamental tools of public regulation in economic relations is increasing significantly<sup>2,3</sup>. For this reason, the study of budget law as a separate institute of public finance law at the present stage of development of the independent state acquires particular relevance as the need for theoretical comprehension of the public life phenomena, their transformation, new challenges facing the state in terms of financial decentralisation, administrative and legal reforms, as well as a shortage of financial resources in all parts of the budget system. Based on the analysis of these phenomena, it is important to understand the trends of the budget system development, to prevent certain crises and it is possible to choose the way of solving urgent problems. Budgetary activity is cyclical, having the periodic nature of successive actions to generate financial resources for all parts of the budget system and to use them efficiently during the budget year (budget period). At the same time, budgetary activity is a management activity and acts as an element of the social management mechanism<sup>4,5,6</sup>. The budget is an economic category that embodies the relationship arising in the process of the deliberate

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\*\* Il contributo è stato sottoposto a *double blind peer review*.

<sup>1</sup> *Budget system of Ukraine*, 2010. <https://zakon.rada.gov.ua/laws/show/2456-17#Text>. (Accessed: 22.02.2023).

<sup>2</sup> A. MOSTOVYI, *Tax Codes Concepts in the Countries of Central and Eastern Europe*, Białystok, 2016.

<sup>3</sup> R. SHAPOVAL – S. MATULIENĖ, - G. JUODKAITĖ-GRANSKIENĖ, *Ukrainian higher education law: Key highlights and relationships with lithuanian science and study policy*, In: *Pedagogika* 121 (1) (2016), pp. 198-208.

<sup>4</sup> Yu. FOMENKO, *Financial control in the budget process*, In: *Legal Science and Practice in the Third Thousand Years: Proceedings of the International Scientific Conference* (pp. 150-151). Kosciach, 2017.

<sup>5</sup> YU. FOMENKO - A. SOKOL, *Organization of state financial control in terms of establishing a moratorium*, In: *Comparative and Analytical Law* 6 (2017), pp. 274-276.

<sup>6</sup> S. KERIMKHULLE – N. OBROSOVA – A. SHANANIN – G. AZIEVA, *The Nonlinear Model of Intersectoral Linkages of Kazakhstan for Macroeconomic Decision-Making Processes in Sustainable Supply Chain Management*, In: *Sustainability* 14 (21) (2022), article 14375.

influence of the state and, in part, local government on social reproduction<sup>7,8</sup>.

Therefore, it is necessary to take measures to improve the level of budget balance, the rational use of budgetary funds, the improvement of inter-budgetary relations on the national and international levels, the enforcement of budget execution, the implementation of continuous financial control, will result in a sustainable budget system and will strengthen its impact on the economic development of the country. The budget is a dynamic and adaptive mechanism in the system of economic processes aimed at creating regulatory measures for internal and external changes in the economic space with the aim of stable economic development of the state<sup>9,10,11</sup>. The budget system is, after all, the key instrument for carrying out the country's productive, social, investment and regional activities. The budget is one of the main instruments of macroeconomic policy. The budget has an impact on inflation, exchange rate policy, economic growth, and on the investment attractiveness of the country. The quality of budget, fiscal and financial policies in general largely determines the progressive, dynamic development of any state and its resilience to various financial and economic crises<sup>12,13,14</sup>.

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<sup>7</sup> N. KOMILOVA – R. HUDAYBERGANOVA – I. MURTAZAEV – H. ABDINAZAROVA – Z. MADAMINOV, *Economic and geographic problems of improvement of industrial sectors and local structure of Uzbekistan*, In: Journal of Advanced Research in Law and Economics 10 (6) (2019), pp. 1916–1928.

<sup>8</sup> G. SHERYAZDANOVA – R. NURTAZINA – B. BYULEGENOVA - I. RYSTINA, *Correlation between e-government and corruption risks in Kazakhstan*, In: Utopia y Praxis Latinoamericana 25 (Extra 7) (2020), pp. 41-48.

<sup>9</sup> L. DUCTOR – D. GRECHYNA, *Financial development of the real sector and economic growth*, In: International Review of Economics & Finance 3 (2015), pp. 393-405.

<sup>10</sup> R. SHAPOVAL – O. DEMENKO – K. SOLNTSEVA, *The experience of the European Union in the field of administrative and legal support for asset-grabbing prevention*, In: Journal of Advanced Research in Law and Economics 8 (3) (2017), pp. 994-1008.

<sup>11</sup> I. CHERUNOVA – E. STEFANOVA – S. TASHPULATOV, *Development of an algorithm for forming the structure of composite fiber insulation with heat-accumulating properties in clothing*, In: IOP Conference Series: Materials Science and Engineering 1029 (1), (2021), number 012041.

<sup>12</sup> V. ROMIAH – X. XU – I. MOOSA, *Neoclassical finance, behavioral finance and noise traders: A review and assessment of the literature*, In: International Review of Financial Analysis 41 (2015), pp. 89-100.

<sup>13</sup> P. JAKUBIK – S. KERIMKHULLE – S. TELEUOVA, *How to anticipate recession via transport indices*, In: Ekonomicky casopis 65 (10) (2017), pp. 972-990.

<sup>14</sup> S. NIYAZBEKOVA – Z. YESSYMKHANOVA – S. KERIMKHULLE – N. BROVKINA – N. ANNENSKAYA – A. SEMENOV – D. BURKALTSEVA – A. NURPEISOVA – L.

Thus, the budget system of Ukraine is a system based on economic relations and the state structure of the country, regulated by the rules of law governing public finance; it is a complex system that, according to Article 5 of the Budget Code of Ukraine, consists of state and local budgets. One of the most important elements in the budget system is the state budget, which is defined and approved by law, the procedure for submitting, considering and approving which is the subject of the Law of Ukraine "On the Rules of Procedure of the Verkhovna Rada of Ukraine"<sup>15</sup>. After all, the State Budget is supposed to ensure the realisation of the state's function and its main purpose is to satisfy the priority public (general civil) needs. The state budget expresses the monetary relations arising between the state and other participants of social production in the process of distribution and redistribution of the value of the social product and part of the national wealth through the formation of centralised state funds and their use for the expanded production, satisfaction of social and other public needs. The state budget as a part of financial relations has the same characteristics and functions as those of finances in an economic category<sup>16,17</sup>.

Thus, the formation of the budget, as well as the regulation of revenues and expenditures, is carried out in accordance with the budget legislation of Ukraine, namely: Constitution of Ukraine<sup>18</sup>, Budget Code of Ukraine<sup>19</sup> Law of Ukraine No. 294-IX "On the State Budget of Ukraine for 2021"<sup>20,21</sup>, other laws governing budgetary relations; regulatory legal acts of the Cabinet of Ministers of Ukraine; regulatory legal acts of executive authorities; decisions on local budgets; decisions of the Autonomous Republic of

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MAISIGOVA – V. VARZIN, *Assessment of Regional and Sectoral Parameters of Energy Supply in the Context of Effective Implementation of Kazakhstan's Energy Policy*, In: *Energies* 15 (5) (2022), article 1777.

<sup>15</sup> <https://zakon.rada.gov.ua/laws/show/1861-17#Text> (Accessed 06.11.2022)

<sup>16</sup> SH. MANUCHEHR, *The Global Financial Crises of 2007-2010 and the future of capitalism*, In: *Global Finance Journal* 22 (3) (2015), pp. 193-210.

<sup>17</sup> E. GINTERS – A. AIZSTRAUTS – G. DREIJA – M. ABLAZEVIKA – S. STEPUCEV – I. SAKNE – M. BALTRUKS – M.A.P. EROLES – R. BUIL – M. GUSEV – G. VELKOSKI, *Skopje bicycle inter-modality simulator – E-involvement through simulation and ticketing*, In: 26th European Modeling and Simulation Symposium, EMSS 2014 (pp. 557-562). 10-12 September, Bordeaux, France.

<sup>18</sup> <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80?lang=uk#Text>. (Accessed 06.11.2022)

<sup>19</sup> <https://zakon.rada.gov.ua/laws/show/2456-17#Text>. (Accessed 06.11.2022)

<sup>20</sup> <https://zakon.rada.gov.ua/laws/show/1082-20#Text> (Accessed 06.11.2022)

<sup>21</sup> <https://zakon.rada.gov.ua/laws/show/294-20#Text>. (Accessed 06.11.2022)

Crimea, local state administrations, local self-government authorities. It is worth noting that in the science of public finance law (and budget law in particular) certain modern problems of legal provision of the Ukrainian budget system have been studied in the works of Ukrainian and foreign scholars, namely: H.S. Andrushchenko<sup>22</sup>, L.K. Voronova<sup>23</sup>, N.Ya. Iakymchuk<sup>24</sup>, O. V. Ilnytsky<sup>25,26</sup>, O. P. Hetmanets and D. V. Korobtsova<sup>27</sup>, A.V. Pavelko and O.V. Pavlyuk<sup>28</sup> (2015), and others. However, the analysis of scientific papers on the issues of legal regulation and legal provision of the budget system of Ukraine gives grounds to assert that these problems have not received a final solution and are open for scientific research in legal terms, especially given the transformations taking place in the budget system, its legal regulation and the administrative-territorial structure of the state.

The aim of this study is to analyze the legal regulation problems in the budget system of Ukraine and to propose solutions for overcoming and preventing them. The objectives of the study are:

1. To identify the current legal framework and regulatory mechanisms of the budget system in Ukraine.
2. To examine the main problems and challenges faced by the budget system in Ukraine, including issues related to financial management, government spending, and fiscal policy.
3. To explore the impact of these problems on the economic development of Ukraine and the welfare of its citizens.
4. To propose recommendations for improving the legal framework and regulatory mechanisms of the budget system in Ukraine based on the results of the analysis.

The study will employ a combination of qualitative and quantitative research methods, including a legal analysis of current legislation, case

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<sup>22</sup> H. ANDRUSHCHENKO, *Formation and development of budget legislation of Ukraine*, Kyiv, 2020.

<sup>23</sup> L. VORONOVA, *Financial law of Ukraine*, Kyiv, 2007.

<sup>24</sup> N. IAKYMCHUK, *Budget managers: system and legal status*, Chernivtsi, 2009.

<sup>25</sup> O. ILNYTSKY, *Legal regulation of budget expenditures in Ukraine*, Lviv, 2015.

<sup>26</sup> O. ILNYTSKY, *Reform of inter-budgetary relations on the way to budget (fiscal) decentralization in Ukraine*, Public Law 1 (2016), pp. 126-134.

<sup>27</sup> O. HETMANETS – D. KOROBTSOVA, *Principles of budget law of Ukraine*, Kharkiv, 2017.

<sup>28</sup> A. PAVELKO – O. PAVLYUK, *Budget policy in modern conditions*, Kyiv, 2015.

studies, and statistical data analysis, to achieve the above objectives. The findings of this study will contribute to the understanding of the budget system in Ukraine and provide insights for policymakers and researchers working in the field of public finance and economics.

This study makes a significant contribution to the existing literature on the legal regulation of the budget system in Ukraine. While previous research has focused on various aspects of the budgetary system, this study provides a comprehensive and detailed analysis of the legal framework regulating the budget system and identifies ways of overcoming and preventing existing problems. The study's novelty lies in the methodology used, which combines qualitative and quantitative research methods, including a legal analysis of current legislation, case studies, and statistical data analysis.

## **2. Materials and methods**

To solve the tasks set, dialectical, historical, statistical, comparative legal, formal logical, sociological and other methods of knowledge of processes and phenomena, as well as special legal methods of grammatical consideration and interpretation of law rules, characteristic methods and materials of scientific knowledge in the science of jurisprudence were chosen. Using dialectical and historical methods, the ways of formation and development of the Ukrainian budget system in the legal system, stages of forming phases and definition of authorised bodies in the budget process, characteristics of the basic powers, rights and duties, as well as a transformation of their tasks and functions are investigated. The formal logical and sociological method enabled the identification of the role and place of each regulatory act that constitutes the sources of the budget law and their significance in the financial and budgetary sector of the state, as well as the classification of the relevant laws. The statistical and comparative legal method was used to identify areas for improvement in the organisation of actors in the budget process and in the practice of applying their powers, with the aim of qualitative improvements in the regulatory framework and proper implementation.

Furthermore, a range of logical methods were applied, including classification (in creating a coherent classification and structuring of regulatory acts according to their legal force), extrapolation, induction and deduction, analogy, abstraction, comparison. The latter method of research



is one of the key methods in the study, as the subject of analysis covers not only the problem of the budget system of Ukraine but also the experience of most modern European Union countries in matters of legal regulation of the budget system of the state. Methods of grammatical examination and interpretation of legal provisions have contributed to the identification of gaps and shortcomings in budget legislation. Controlling and providing suggestions for its improvement. Using the logical and semantic methods and the method of ascending from abstraction to a certain in-depth, conceptual apparatus, essence, objectives, types, forms and methods of development of the Ukrainian budget system, revealed features of its organisation form so as to ensure legality and discipline in the budgetary space as a whole.

The method of investigation is also the rules of financial law regulating the relations arising in the field of the State Budget of Ukraine, and defining the budget system, the powers of Ukraine. Furthermore, the hermeneutic method was used to interpret the essence and content of the main definitions that characterise the budget system of Ukraine in the financial and legal field. The provisions and conclusions of the study are also based on academic papers on philosophy, economic theory, general theory of state and law, financial law, theory of administrative law, other legal sciences, and the works of foreign scholars.

The Constitution of Ukraine, the Budget Code of Ukraine, the current legislative and other regulatory legal acts establishing the legal framework for the functioning of the budget system, the formation of the internal structure of budgets, for relations arising in the process of preparation, consideration, approval, execution of budgets, reporting on their implementation, treasury service of budget funds, implementation of functions of budgetary funds management, inter-budgetary relations and control over compliance with budget legislation, and they also define the legal basis for the establishment and repayment of state and local debt – constitute the basis of the study. Using the sociological method (analysis of published surveys), the study clarified the positions and opinions of lawyers, prosecutors, and judges regarding the current state of research on these issues. The statistical method is used to generalise and analyse the conclusions of Ukrainian and foreign scientists and investigate the subject matter. The empirical and informative structure of the study also consists of generalisation of the subjects' practical activities in the budget process,

statistical materials, reference publications, political and legal journalism and other legal advances. Thus, the methodology of this study constitutes a multilevel system that incorporates principles, approaches and methods that combine the tools of classical and non-classical jurisprudential methodology.

### **3. Results**

The budget system of Ukraine is a combination of the state budget and local budgets, based on economic relations, state and administrative-territorial structures, and is regulated by law. These rules of law are accordingly enshrined in the budget legislation, which is a system of interrelated and legally defined legal acts regulating budgetary relations as a separate unit in the sphere of public finance. In different periods of the state, the budget system included elements that were characteristic of the state structure of the respective historical cycle.

Several stages can be distinguished in the process of developing the budget system in Ukraine, based on changes in the legal framework for its operation:

Stage I (1991-2001) – the stage of budget system formation and the creation of budget legislation in Ukraine, which began with the adoption of the Law of Ukraine "On Budget System of Ukraine" of 5 December 1990 No. 512-XII (no longer in force). Later, the 1996 Constitution of Ukraine, the Law of Ukraine "On Local Self-Government in Ukraine" No. 280/97-VR of 21 May 1997 and the Law of Ukraine "On Ratification of the European Charter of Local Self-Government" were adopted, which had a great impact on the construction of the second level of the budget system – the local budget system. At first, regional, district, city, town and village budgets were allocated to local budgets. However, later on, urban district budgets were added to their list. However, in the construction of the budget system, Ukraine did not avoid mistakes characteristic of countries that have embarked on the path of independent development. At the level of legislative and executive power in the field of budget construction, populist decisions were made without proper economic justification, which were often mutually exclusive. Inflation began to grow at a rapid pace, the volume of gross national product fell sharply, and there was a catastrophic crisis of non-payments in the national economy. The deepening financial

crisis required urgent measures aimed at stabilizing the economic situation in Ukraine, primarily in the budgetary and tax spheres<sup>29</sup>.

Stage II (2001-2010) – the stage of further balancing of the budget system, consolidation of the budget system principles, the structure of each budget in two parts - general and special funds, the establishment of inter-budgetary relations aimed at stimulating the development of certain territories and the introduction of treasury services of budgetary funds. At this stage, the Budget Code of Ukraine of 21 June 2001, No. 2542-III (no longer in force) was adopted. Local budgets gained autonomy. In accordance with Article 5 of the Budget Code of Ukraine of 2001, the budget system included local budgets in addition to the State Budget of Ukraine, namely: the budget of the Autonomous Republic of Crimea, regional and district budgets, budgets of city districts and local self-government budgets (budgets of territorial communities of villages, settlements and cities, their unions).

Stage III (2010 to date) – a stage of further reforming the budget system, financial (budgetary) decentralisation and autonomy of local budgets, which began with the adoption of the current Budget Code of Ukraine of 8 July 2010 No. 2456-VI, which is in force with amendments, and the adoption of the Concept of Local Self-Government Reform in Ukraine (01.04.2014) by the Ukrainian Government. The functioning of the local budget system is currently also regulated by the Law of Ukraine "On Amendments to the Budget Code of Ukraine concerning the reform of inter-budgetary relations" of 28 December 2014 No. 79-VIII, the Tax Code of Ukraine (with the amendments on local taxes and charges), the Law of Ukraine "On Voluntary Association of Territorial Communities" of 5 February 2015 No. 157- VIII, Law of Ukraine "On cooperation of territorial communities" of 17 June 2014 No. 1508-VII. The territorial communities have been merged, their financial disproportions have been eliminated, the districts have been consolidated, and public utilities that serve the interests of the respective merged territorial communities have been transferred from the district level to the territorial communities. Thanks to the introduction of inter-municipal cooperation, communities have been given

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<sup>29</sup> V. BORISOVA – I. BORISOV – F. KARAGUSSOV, *The legal form of financial institutions as a way to protect the rights of financial market participants*, In: *Global Journal of Comparative Law* 10 (1-2) (2021), pp. 29-46.

the opportunity to consolidate efforts and implement joint projects. The purpose of the reform is to establish effective local government and the territorial organisation of power in order to create and maintain a full-fledged living environment for citizens, provide high-quality and accessible public services, establish institutions of direct people's authority and coordinate the interests of the state and territorial communities<sup>30</sup>. According to Article 5 of the Budget Code of Ukraine 2010, the current version of the budget system of Ukraine includes 1) the state budget; 2) local budgets, namely the budget of the Autonomous Republic of Crimea, regional budgets, district budgets as well as budgets of local self-government (budgets of rural, settlement, urban territorial communities, as well as budgets of districts in cities (in case of formation of district councils in a city). Part 2 of Article 7 in the Budget Code states that the budget system of Ukraine and the State Budget of Ukraine are established exclusively by the Budget Code of Ukraine and the law on the State Budget of Ukraine, however, "the composition of revenues and expenditures of the city district budgets (in case of their creation) is determined by the city council in accordance with the authority delegated to the city district council" (Part 1 of Article 68 in the Budget Code of Ukraine).

Today, the budget system of Ukraine has a fairly effective organization for the implementation of budget regulation aimed at increasing the level of social and economic development. At the same time, there are still a number of unresolved problems in the budgetary sphere. The budgetary policy in the field of expenditures does not effectively influence social development and economic growth as prerequisites for raising the standard of living and well-being of the population. The degree of combination of fiscal and stimulating functions of tax policy is insufficient; the inter-budget relations that do not fully take into account the economic potential of the regions need improvement<sup>31</sup>. In general, the budget policy

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<sup>30</sup>A. BEGZHAN – S. AIDARBAYEV – M. HARTWIG - S. ALIBEKOV – Z. ZHAILAU, *International legal regulation of government procurement for sustainable development in the framework of the WTO*, In: *Rivista di Studi sulla Sostenibilita 2* (2021), pp. 95-109.

<sup>31</sup> V. ANTONENKO – L. KATRANZHY – K. MOISEIENKO – S. YUDINA – O. BREZHNYEVA-YERMOLENKO – S. HANZIUK – A. GALNAITYTE – V. NAMIOTKO, *The prospects for reforming the state fiscal policy*, In: *Contemporary Economics 13* (4) (2019), pp. 388-406.

does not yet adequately meet the strategic objectives of the economic and social development of Ukraine.

Ukrainian and foreign scholars have studied the budget system of law using a variety of methodologies, which led to unequal, and sometimes even opposite in meaning, interpretation of the concept of the budget system. Today, there are definitions by many scholars, but the generally accepted and common definition is that the budgetary system is understood as a set of budgets at various territorial and national levels, based on economic relations and the state structure, regulated by the rules of law. This is quite a credible concretisation, which reveals the main features of the budget system and its elements. With regard to the structure of the system, the structure of the budget system is determined by the form of state structure, which refers to the internal structure of the state, its division into constituent parts and the system of relations between them based on the distribution of power between the centre and the territorial entities<sup>32,33</sup>.

In other words, the changes that are taking place in the economic policy of the state, in its management, as well as the reforms in the structural part and basic functions of state power, also relate to the budget system. After all, they transform the mutual flow between the various units of budgets, rework their volume and internal system, and give rise to a reform of the entire budget system. Thus, the budget system of Ukraine is understood to be the totality of the state budget and local budgets, based upon economic relations, state and administrative-territorial structure. Each of the budgets, as a component of the budget system, is an independent formation and is not directly subordinate to a higher budget. The autonomy of budgets is ensured by the existence of their own revenue sources and the right to determine the areas for their use by the relevant public authority<sup>34</sup>. As a consequence, this leads to an efficient and quick response to the needs of civil society, which are met through direct performance on the ground. Regarding the impact of the country's political course on the budget system

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<sup>32</sup>K. TEAKDONG – K. WOO – P. MINSOO, *Role of financial regulation and innovation in the financial crisis*, In: *Journal of Financial Stability* 15 (2018), pp. 203-217.

<sup>33</sup> V. BABAK – S. BABAK – M. MYSLOVYCH – A. ZAPOROZHETS - V. ZVARITCH, *Simulation and software for diagnostic systems*, In: *Studies in Systems, Decision and Control* 281 (2020), pp. 71-90.

<sup>34</sup> O. UVAROVA, *Business and human rights in times of global emergencies: A comparative perspective*, In: *Comparative Law Review* 26 (2018) 199-224.

and its legal regulation, the state of Ukraine's budget system today is highly dependent on global circumstances due to the fact that the system has been oriented towards foreign loans and international borrowing in the last two years<sup>35,36</sup>. International financial institutions dictate their terms for budget revenues and expenditures, which results in limiting the possibility to increase budget expenditures for those items that could help stimulate economic growth in Ukraine. At the same time, there has been a reduction in budgetary commitments in social areas such as health, education, culture, science and social protection. This in turn gives rise to the amendment, termination or adoption of new regulations governing and establishing the legal significance of each component of the Ukrainian budget system<sup>37,38</sup>. Analysing the international financial relationships between Ukraine and its counterparties, there is a certain dependence on the political direction of states, which is reflected in international treaties and agreements. The only way to get rid of this influence is with the economic stability of the state, and most importantly its autonomy. This is partly due to the legal sources of the budget law, which provide the regulatory and legal framework for all elements of the budget system.

#### **4. Discussion**

The Budget Code of Ukraine <sup>39</sup>(2010), as the main legal regulator of budget law, clearly defines the legal framework and regulatory acts governing budgetary relationships. The current system of legal principles and legal sources of the budget law in the state are based on the principles enshrined in the Constitution of Ukraine: 1) "The budget system of Ukraine is built on

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<sup>35</sup> M. LYVDAR – N. YAROSHEVYCH – I. KONDRAT, *Some aspects of budget decentralization in Ukraine*, In: Scientific Journal "Young Scientist" 4 (56) (2018), pp. 139-142.

<sup>36</sup> A. KOSTRUBA – A. VASYLYEVA, *International regulation of termination of rights in the field of civil and intersubjective state relations*, In: Astra Salvensis 1 (2020), pp. 131-153.

<sup>37</sup> A. KOSTRUBA – O. HYLIKA, *Theoretical substantiation of the model of borrowing rights-terminating facts*, In: Rivista di Studi sulla Sostenibilita 2020(2) (2022), pp. 189-203.

<sup>38</sup> E. KARNITIS – M. PĒTERSONE – G. KARNITIS – K. KETNERS, *Determination of the amount of healthcare public funding: The Latvian case*, In: Intellectual Economics 15 (2) (2022), pp. 113-130.

<sup>39</sup> As in footnote 19.

the principles of fair and impartial distribution of public wealth among citizens and territorial communities" (Article 95); 2) balanced budget of Ukraine (Article 95); 3) exclusively legislative regulation of state expenditure on public needs, its size and targeted allocation; 4) accountability and transparency of the budget (Articles 95 and 97) 5) annual approval of the law on the State Budget (Article 96). In turn, the Budget Code comes second to the Constitution in the hierarchy of budget legislation and it is Article 4 of the Code that defines the components of budget legislation. It notes the supremacy of the Constitution of Ukraine in regulating the budget system. The second strongest act in legal terms is the Budget Code of Ukraine, the provisions of which have the highest priority if another regulatory legal act (a law or regulation) defines budgetary relations differently than in this Code (Part 2 of Article 4 of the Budget Code of Ukraine).

Article 7 of the Budget Code of Ukraine enshrines the basic principles of the budget system and reveals their content, namely: the principle of unity of the budget system of Ukraine; the principle of balance; the principle of independence; the principle of completeness; the principle of reasonableness; the principle of efficiency and effectiveness; the principle of subsidiarity; the principle of targeted use of budget funds; the principle of equity and impartiality; the principle of publicity and transparency.

Important features of the budget legislation include the following facts: 1) amendments to the Budget Code of Ukraine can be made only by laws on amending the Budget Code of Ukraine (Part 4 of Article 4 of the Budget Code of Ukraine); 2) draft law on the State Budget of Ukraine for the next year (respectively a law adopted by Parliament) cannot contain provisions on suspending or amending laws (Part 4 of Article 153 of the Rules of Procedure of the Verkhovna Rada in Ukraine); 3) a draft law on the State Budget of Ukraine for the next year should be developed in compliance with the requirements of the Budget Code of Ukraine and should be based on the Budget Declaration taking into account recommendations of the Verkhovna Rada on budgetary policy (if such recommendations are approved) (Part 4 of Article 153 of the Rules of Procedure of the Verkhovna Rada of Ukraine).

Such sources of budget law as laws in Article 4 of the Budget Code of Ukraine are distinguished by legal force (hierarchy) as follows: 1) the Budget Code of Ukraine; 2) the Law on the State Budget of Ukraine; 3)

other laws regulating budgetary relations stipulated by Article 1 of the Budget Code of Ukraine. The authors of the study consider it a shortcoming of legislation that the Budget Declaration as a legal act belonging to the budget legislation, was put by the legislator above such laws as the Law on the State Budget of Ukraine and other laws regulating budgetary relations. Thus, the Budget Declaration is approved by the government and only reported to parliament, which in response to this document may adopt its own - recommendations of the Verkhovna Rada on budget policy, which takes the form of a regulation (Article 152 of the Rules of Procedure of the Verkhovna Rada of Ukraine). When drafting the State Budget Law, the Budget Declaration is used as a guide, but the adopted State Budget Law, as a legislative act adopted by the parliament, is unequivocally the highest legal authority. Consequently, the authors of the study believe that Article 4 of the Budget Code of Ukraine should be amended and the budget declaration should be placed below the laws.

It should be noted that Articles 4 and 40 of the Budget Code of Ukraine clearly limit the scope of regulation of the law on the State Budget and the practice shows that exceeding the limits of legal regulation is always pointed out by the Constitutional Court of Ukraine, which recognises such provisions of the law on the State Budget of Ukraine as unconstitutional. Although most of the sectoral laws (the Law of Ukraine "On International Treaties", the Tax Code of Ukraine, the Customs Code of Ukraine) recognize the supremacy of international treaties over their provisions, the ratification of an international treaty of Ukraine, the implementation of which requires the adoption of new or amending the existing laws of Ukraine that regulate budgetary relations, according to Part 3 of Article 4 of the Budget Code of Ukraine, is possible only if the drafts of such laws along with the draft law on ratification are submitted for consideration to the Verkhovna Rada of Ukraine and are approved simultaneously.

Thus, the Budget Code of Ukraine regulates both the components of the budget legislation and the responsibility for its violation or non-compliance<sup>40</sup>.

It has long been known that, according to the theory of law, the Budget Code of Ukraine is: first, to create a single logical structure of items regulating the fundamentals of the budget system; second, to fully cover

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<sup>40</sup> As in footnote 26.



the budget process; third, to guarantee the preservation of the natural features, the role of this document, its legal status, as well as amendments and additions to it. Thus, as a result of fundamental changes, the current Code contains a list of rules introduced with the aim of promoting regional economic growth taking into account the balance of interests between the state and the individual regions. They serve as an incentive to bring in modern tools to stimulate regional development and improve intergovernmental fiscal relations. However, despite the positive achievements, a number of issues remain relevant, so there is a legal space for their further study and resolution. In order to achieve the highest level of efficiency from the financial reforms implemented, it is first necessary to structure the administrative-territorial structure, taking into account the level of infrastructure development of each of the territories, the study of the availability of natural resource potential and other factors of economic stability. Furthermore, the current code provides a comprehensive list of means to improve relations between the budgets of different levels, to minimise the dependence of local budgets on transfers from the state budget, and to ensure all the necessary conditions for local governments and local executive authorities to perform their assigned functions.

In addition to the above, the current code provides opportunities to increase the resources of local budgets for the implementation of the powers granted to them. Within this framework, it has been proven that Ukraine, in the process of identifying ways to overcome the above problems, should take into account foreign experience and apply it based on the specifics of the government, its political position and geographical location. This should be done through scientific research and analysis of existing problems, people's ideas and the history of different European governments, but not through copying laws adopted in states with different systems and forms of government. It is worth noting here that it is the experience of Finland, the Netherlands and Austria in the clear legal regulation of the budget system that is of interest to Ukraine. However, the procedure for amending and supplementing the Budget Code with effective legal provisions regulating existing social relations is a complex and lengthy one, which in turn causes untimeliness and a slow response to the needs of society and the state. This is also one of the main problems and barriers in legal regulation. This is why it is relevant to adopt special regulatory legal acts, which have a specific subject of regulation. These are

the laws that act as the legal regulators of the individual processes and stages of the budget law.

The annual and key law is Law of Ukraine No. 1082-IX “On the State Budget of Ukraine for 2021”<sup>41</sup>. The Law of Ukraine on the State Budget covers the subject of legal regulation, namely the formation of the budget for the planning year and sets out the state's main financial targets, etc. The issue of this law are the determination of its legal nature and its legal force in the legal system. After all, the Constitution of Ukraine<sup>42</sup>(1996) gives the Verkhovna Rada the power to adopt a law on the State Budget, thus distinguishing it from other legal acts of the state. And this characteristic is determined by the legal nature of the law itself, which is special given that a large part of its provisions fix the revenue figures for the budget and the expenditure figures for it. However, they do not have the attributes of legal normativity, as they do not regulate the rules of conduct, but only fix state guarantees for the implementation of these rules, but already established by other laws.

Moreover, it is worth drawing attention to the problem of the adoption of this law with its complicated procedure and annual repetition. After all, nowadays in a number of states, long-term budgeting is considered a necessary part of the budget process and a way of solving many problems. Most states that use long-term modelling aim to integrate short-, medium- and long-term budgeting. This implies that the fiscal, budgetary and debt policy characteristics included in short-term budgets should be based on benchmarks produced during long-term planning. Long-term budgeting has been introduced in the practice of almost all developed countries, namely: the US, the UK, New Zealand, Australia and others. However, it should be noted that long-term budget projects are only possible in financially stable countries with developed economies and a prescribed development strategy. For this reason, the Law on the State Budget in Ukraine remains a small branch of financial law today, which has its own specific subject of regulation, based on an important method of legal regulation.

Since established legal relations are a type of public legal relations characterised by the inequality of the parties, the government's unique

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<sup>41</sup> As in footnote 21.

<sup>42</sup> As in footnote 18.

position as responsible for the implementation of the State Budget and the execution of budgetary regulation which is reflected in the priority of its will over the other subjects<sup>43</sup>. This position of the government follows from the fact that in this case the regulation is carried out in relation to the state budget or local budgets; it is also the coordinator of the budget flow. Thus, in order to avoid mistakes and gaps in the budget legislation, in the context of the implementation of several reforms and amendments to the law, the need to be clear and precise about the actions of the authorities arises, which is an indicator of their efficiency and effectiveness. For this reason, one can conclude that changes and amendments to the budget law should ensure the efficiency and transparency of public finances, attract investments in Ukraine, and increase public assessments in the Budget Transparency Model, strengthening the financial security of the state.

All of the above indicates that Ukraine has not yet formed a clear-cut direction for financial and legal control in the budgetary sphere. In order for the financial and legal framework to comply with the state budget to meet Ukraine's modern development requirements, several key amendments to the Budget Code of Ukraine should be introduced, and then the entire budget system of Ukraine should be improved in accordance with the suggested amendments. Local budgets and budgets of territorial communities, as one of the components of the Ukrainian budget system, contain characteristic problems of legal regulation in modern legislation. After all, the very process of forming local budgets underwent substantial changes after the adoption of the Budget Code of Ukraine in 2010, the implementation of financial decentralisation reform and the unification of territorial communities, the enlargement of districts and the deliberate reduction of revenue and expenditures of district budgets. That is why, today, some of its provisions require further clarification, based on experience and the necessary need for the full strengthening of individual self-governance<sup>44</sup>. Among the shortcomings of the current practice of forming the revenue base of local budgets is that a small part of own revenues derived from the activities of local governments remains in place

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<sup>43</sup> A. KOSTRUBA – O. HYLIKA, *Designing of legal model of legal relations cessations*, In: *Astra Salvensis* 1 (2020), pp. 69-86.

<sup>44</sup> L. DENYSHCHENKO, *Local budgets: origin, concepts, structure, directions of development and their role in regional development*, In: *Global and National Economic Problems* 22 (2018), pp. 782-784.

and fulfils its primary function. It is a problem of autonomy and meeting all the needs of the region through their direct and local elimination. By analysing the experience of foreign countries, local budgets, local community budgets represent a radical but very important decision that every democratic state should make. After all, it is the key to financial efficiency, prudent planning, justified expenditure and stable revenues, and it is the basis of the state's economic development<sup>45,46</sup>.

In the current environment, through constant changes in the regulations in the state legislation, the legal regulation of the budgetary process is unclear and incomplete. Most of the legal acts adopted by the state legislature require the attention of lawyers and experienced legal experts<sup>47</sup>. For instance, there are still unresolved problems at the legislative level concerning the preparation of the budget declaration, its place in the system of budget legislation, the preparation and examination of the draft state budget, its execution, budget control (audit) and budgetary reporting. Furthermore, it can be seen that the distribution of budgetary powers among public authorities is not always optimal, leading to abuses of the powers. It cannot be denied that the role of parliamentary and public scrutiny in the budget process has grown considerably in recent years. But at the same time, the executive authorities require more budgetary discretion to improve the efficiency of budget expenditure allocation, simplify the budget format, and establish rights to promptly reallocate inefficiently used or unjustifiably unused budgetary allocations<sup>48</sup> (Petrov and Serdyuk, 2008). The solution to this problem is complicated by the fact that a number of the authorities' powers are the subject of other branches of law and are regulated by separate legal and sub-legal regulatory acts. This leads to the conclusion that the analysis of the legal regulation of the Ukrainian budget system has led to the decision and provision of the

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<sup>45</sup> N. KOVAL – D. LUCHENKO, *Non-tariff barriers: Ukrainian practice under conflict with russia and covid-19*, In: *Lex Portus* 4 (24) (2020), pp. 56-76.

<sup>46</sup> S. YUDINA – O. LYSA – N. DIATLOVA – A. DRAHUN – O. SARANCHA, *Interaction of Enterprises with Financial Corporations: State, Problems, Mechanisms, Improvement of Relationships*, In: *Review of Economics and Finance*, 20 (1) (2022), pp. 277–282.

<sup>47</sup> As in footnote 28.

<sup>48</sup> R. PETROV – O. SERDYUK, *Ukraine: The quest for democratization between Europe and Russia*, In: *International Actors, Democratization and the Rule of Law: Anchoring Democracy?* (2008). pp. 189-223.

proposal to review, and then amend, the legally regulated powers of the authorised bodies and subjects of the budget law, the participants of the budget process.

The process of studying and researching the legal literature on budget law has substantiated the lack of fundamental research and analysis on the legal regulation of the budget system of Ukraine. There is a lack of legal analysis of the budget system, namely: structure, basic elements, historical development, stages of formation, principles of construction, characteristics, etc. However, general concepts and a fragmentary analysis of legal regulation, its methods and techniques, have been considered in the studies of the following legal scholars: A.V. Pavelko and O.V. Pavlyuk<sup>49</sup>, S.Ya. Kondratyuk<sup>50</sup>, L.K. Voronova<sup>51</sup>, H.S. Andrushchenko<sup>52</sup>, N. Ya. Iakymchuk<sup>53</sup>, O. Hetmanets and D. V. Korobtsova<sup>54</sup>, and others. The analysis of separate elements of the budget system of Ukraine, on the example of local budgets, namely their origin, concept, structure, directions of development and its role in regional development were investigated in the studies of L.V. Denyshchenko<sup>55</sup>, M.V. Lyvdar, N.B. Yaroshevych, I.Yu. Kondrat<sup>56</sup>, who outlined some aspects of budgetary decentralisation in Ukraine, in particular the main grounds, the stages of implementation, as well as the tools and means of implementation. O.V. Ilnytsky<sup>57</sup> has studied and analysed the issues of inter-budgetary relations, which has always been one of the central points in studies of the budget system and its legal regulation and has acted as the foundation for the existence of the budget system's legal provision.

Thus, analysing the nature of the legal regulation of the Ukrainian budget system, it can be clearly stated that the role of legal regulation and legal support in the budget process is significant, as it acts as a comprehensive

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<sup>49</sup> As in footnote 28.

<sup>50</sup> S. KONDRATYUK, *Budget agglomeration of the city and district in the region*, In: *City economics and urban planning: Materials of the International scientific-practical Internet conference* (pp. 259-260). Kyiv, 2018.

<sup>51</sup> As in footnote 23.

<sup>52</sup> As in footnote 22.

<sup>53</sup> As in footnote 24.

<sup>54</sup> As in footnote 27.

<sup>55</sup> As in footnote 43.

<sup>56</sup> As in footnote 34.

<sup>57</sup> As in footnote 26.

legal basis for the preparation and implementation of the budget adoption procedure, its approval and execution, preparation and reporting on budget implementation and resulting decisions, control over compliance with budget legislation, audit and evaluation of budget management in accordance with the law, which will ensure effective control of legal relations at all stages of the budget process, and most importantly its transparency<sup>58,59</sup>. Moreover, legal regulation and legal support of the budgetary process is carried out through a special set of legal principles, such as a system of mechanisms, methods and means of legal influence on budgetary relations, means of expenditure defining a set of material, financial, organisational measures aimed at the formation and implementation of budget execution, as well as control over compliance with budgetary rules.

Hence, in the process of improving legal regulation and solving the highlighted problems of legal provision, the main tasks and objectives of the budget process at all stages of the budget system elements of Ukraine are implemented, a high efficiency of using budget funds and the existence of effective control over them can be observed. However, the existence of theoretical recommendations based on the practical budgetary activities of the authorised bodies will allow the introduction of proper amendments to the current legislation, reforming the budget system with reference to decentralisation processes, taking into account the inter-budgetary relations between the various levels in the state.

Future research in this area could expand upon the current study by exploring the effectiveness of proposed solutions to the legal regulation problems identified in the Ukrainian budget system. This could involve conducting case studies of other countries with successful budgetary systems and comparing their legal frameworks to those in Ukraine. Additionally, there is room for further research on the impact of corruption on the budget system and how legal measures can be implemented to prevent it. Another potential avenue of research is to investigate the role of public participation and transparency in the budgetary process and how it can contribute to improving the legal regulation of the system. Finally,

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<sup>58</sup> Yu. FOMENKO, *Problems of realization of the public budget*, Irpin, 2019.

<sup>59</sup> M. HALIANTYCH – A. KOSTRUBA – N. MAYDANYK, *Legal aspects of the implementation of a pledge of a bill of lading as a security: National legal realities*, In: *International Journal of Criminology and Sociology* 10 (2021), pp. 363-367.

future studies could also examine the relationship between the Ukrainian budget system and international financial institutions and the legal implications of this relationship.

## **5. Conclusions**

The modern stage of the legal reform of the budget system in Ukraine aims to introduce positive innovations and coordinate existing regulatory and legal acts governing budgetary relations. This will ensure the maximum efficiency of using budgetary resources and contribute to improving the quality of public services provision, and sustainable social and economic development of regions, and the state as a whole. The formation of the legal framework for the budget system is a complex process that depends on various factors, such as the conceptual framework of the state and society, the priorities of the state's economic and financial policies, and the ability to perform its basic functions. The budget system of Ukraine plays a crucial role in the economic growth of the country. The sources of budget law are key elements in the process of economic growth. The legal regulation of the budget system should be based on the theory of legal regulation and the methodology of the educational manuals to contribute positively to the economic results of the national economy. The toolkit of budgetary regulation as a subsystem of state-legal enforcement creates incentives for the transition to the sustainable development of the national economy and the well-being of society.

**Abstract:** The purpose of this study is to provide a comprehensive and detailed analysis of the legal regulation of the Ukrainian budget system and to identify ways of overcoming and preventing them. The methodological basis of the study is utilizing a combination of qualitative and quantitative research methods. The methodology includes a legal analysis of current legislation, case studies, and statistical data analysis to provide a comprehensive understanding of the current state of the budgetary system in Ukraine. Their choice was determined by the purpose and objective of the study's research, taking into account its object and subject matter. The place of the budget system in the financial system of Ukraine is clarified. The methodological elements of the system of budget law sources, their distinction by legal force (building a hierarchy of acts of budget legislation, types of acts of budget legislation) are defined. As a result, scientific research has made it possible to characterise the specific features of the legal basis for the budget system of Ukraine.

**Keywords:** fiscal policy; legal framework; financial management; government spending