

# АДМІНІСТРАТИВНЕ І ФІНАНСОВЕ ПРАВО

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## ESTIMATED FINANCING OF PUBLIC AUTHORITIES AS THE MAIN TYPE OF FINANCIAL SUPPORT OF ACTIVITIES BY THE BODIES OF THE PROSECUTOR'S OFFICE OF UKRAINE

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The article is devoted to the analysis of the financial support issue of the activity of the Prosecutor's Office of Ukraine bodies as the implementation of the estimated financing of public authorities.

The importance of the research topic is due to the need to reduce the impact of a combination of factors on the activities of the prosecutor's office, such as the national economy, social problems, the danger of politicization of this law enforcement agency.

The article analyses the concepts and features of estimated financing, the concept and objectives of financial support and why it is used to finance the prosecutor's office, national financial legislation, the importance of prosecutorial remuneration for efficiency as well as fairness of criminal justice. By referring to the international standards, conclusions were drawn from the analysis of budget programs implemented by the Prosecutor General's Office of Ukraine in their areas, as well as the responsible actors and budget reporting on the activities of the prosecutor's office.

The advantages and disadvantages of the budget regime of financing the prosecutor's office are studied. It is noted that despite the sufficient advantages, estimated financing also has significant disadvantages, manifested in the fact that this form does not provide sufficient incentives for rational and efficient functioning of the budget institution and does not provide a close relationship between financial resources and its results activities. Based on allocated budget allocations, budget institutions ensure the performance of their functions, which is not always realized with the ability to provide quality and affordable public services.

The authors also analyse and propose new areas of research. In particular, the issue of evaluating the effectiveness of the use of budget funds by the prosecutor's office, which will be the subject of a separate scientific study, is insufficiently investigated.

The research concluded that the need to improve budget funding is a basic form of financial support of the prosecutor's office, as it aims to ensure the statutory activities of budgetary institutions and provide them with socially necessary services to comply with basic principles of estimated financing. Estimated financing should be effective and ensure maximum return on the use of financial resources of the budgetary institution.

*Keywords:* financial support, prosecutor's office, estimated financing, budget programs, budgetary institution.

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In the modern world, one of the main tasks of the state is to protect the rights and freedoms of man and citizen. Such activities as a body to protect victims from encroachments on their rights and legitimate interests, are seen in the institute of the prosecutor's office. In this regard, we consider it necessary to investigate how the financial support of the prosecutor's office of Ukraine is carried out, as it is an important component for them to perform their duties and powers.

The topicality of this issue is also due to the need for theoretical research of organizational and legal aspects of financial support of the prosecutor's office and current funding issues. In our deep conviction, this area of research is important, as it contributes to the fight against crime in modern conditions, because the factors such as the national economy, social problems, and significant politicization of this law enforcement agency (although it should be quite the opposite) directly affect the activities of authority's prosecutor's office.

In this regard, we consider it necessary to investigate how the financial support of the Prosecutor's Office of Ukraine is carried out, as it is an important component for them to perform their duties and powers.

The problems of financial support for the activities of the Prosecutor General's Office of Ukraine are insufficiently studied in Ukraine and are only partially revealed in the works of such Ukrainian scholars as S. Banakh [1; 2], M. Ilnytsky [3] I. Rukolainina [4], A. Subbot [5], E. Shablin and others.

The purpose of the article is to investigate how the financial support of the Prosecutor's Office of Ukraine is carried out, as it is an important component of the performance of duties and powers by this body.

Financial support is an important source of resources for the support and existence of the law enforcement system in Ukraine because the relationship between the result (effect) and real costs to achieve it, determines the effectiveness of public authorities [5, p. 16]. Financial support of the prosecutor's office is defined as the procedure established in the legislation for providing the prosecutor's office with the funds necessary for the implementation of its functions [6, p. 228]. Thus, according to S. Banach, «financial security» is a system of financial relations, which is clearly defined by state and departmental regulations. This is an activity carried out within the financial system of the state in all its manifestations and is a form of participation in the distribution of funds by obtaining financial resources [1, p. 137].

The purpose of the financial support of the prosecutor's office is to provide its bodies with appropriate logistical and financial resources necessary for the effective performance of their functions. We believe that this is extremely relevant now, as sufficient remuneration of prosecutors is a necessary condition to reduce the risk of corruption. The legislation of Ukraine, in particular, Part 1 of Article 89 of the Law of Ukraine «On the Prosecutor's Office» provides for that the prosecutor's office is funded by the State Budget of Ukraine and other sources not prohibited by law, including in cases provided by international treaties of Ukraine or international technical assistance projects registered in the prescribed manner.

The financing of the prosecutor's office should be considered in two aspects. The first is the financing of the needs of the body as a legal entity by providing financial and

logistical resources (maintenance of buildings, running costs, rent, etc.). The second is the financial support of individual employees (wages, etc.) [6, p. 228]. Thus, the legislator is faced with the question – how to provide financial and material resources for the activities of the prosecutor's office, as well as adequate remuneration of its employees.

A positive step in this direction was the adoption of the Law of Ukraine «On the Prosecutor's Office» as amended on 16.04.2014. Under it, the issue of funding is referred to as an exceptional measure to ensure the independence of the prosecutor's office. Progressive norms have been introduced stating that the prosecutor's salary is regulated by the law and cannot be determined by other normative legal acts. In order to establish the prosecutor's salary at a certain, minimum guaranteed level, it depends on the size of the minimum wage.

The laws of Ukraine, in particular, Part 1 of Article 89 of the Law of Ukraine «On the Prosecutor's Office» provides for that the prosecutor's office is funded by the State Budget of Ukraine and other sources not prohibited by law, including in cases provided by international treaties of Ukraine or international technical assistance projects registered in the prescribed manner. At one time, after the adoption of this legislation, the Directorate-General for Human Rights and the Rule of Law of the Council of Europe commented on this provision. In particular, he noted that «the general provision of funding for the prosecutor's office is generally in line with the basic principles and European standards developed in this regard.»

The importance of prosecutors' remuneration for the efficiency and fairness of the criminal justice system is mentioned in the Venice Commission's Report on European Standards on the Independence of the Judiciary: Part II, The Prosecution Service, adopted on 17-18 December 2010. Sufficient remuneration of prosecutors is also considered in the document as a condition necessary to reduce the risk of corruption (*funded institutions from the budget, based on financial plans-cost estimates*) [6].

Today, the main method of financial support of the Prosecutor's Office of Ukraine is estimated financing, which provides for the allocation of funds for the maintenance of institutions, organizations, programs, and implementation of measures on the basis of a special financial document – the estimate. This form provides for the receipt of funds for the implementation of economic activities of the budgetary institution from the budgets of different levels and state trust funds based on estimates. We believe that this method is generally positively reflected in the further activities of this body, contributes to its effectiveness and efficiency.

The estimate is the main planned financial document of the budgetary institution, which for the budget period establishes the authority to receive revenues and allocate budget allocations for budget commitments and payments to perform the budget institution its functions as well as achieve results determined in accordance with budget allocations.

The estimate of the budgetary institution is the main planning document, which gives the budget institution the authority to receive revenues and expenditures, determines the amount and direction of funds for the budget institution to perform its functions and achieve the goals set for the year in accordance with budget allocations. Estimated financing includes financial support for management, defence, production, and social infrastructure. Budget funds are allocated based on estimates for institutions and organizations operating in the field of public administration, defence, education, health care, physical culture and sports, culture, social sphere, etc.

Estimated financing is used to finance the prosecutor's office, as the prosecutor's office is a body of state power and, in accordance with paragraph 12 of Article 2 of the Budget Code of Ukraine, belongs to budgetary institutions.

However, despite the sufficient advantages, estimated financing also has significant disadvantages, which are manifested in the fact that this form does not provide sufficient incentives for the rational and efficient operation of the budgetary institution and does not provide a close relationship between financial resources and performance. Based on allocated budget allocations, budget institutions ensure the performance of their functions, which is not always realized with the ability to provide quality and affordable public services. Also, in accordance with the Budget Code of Ukraine, the sources of funds of the special fund and the directions of their use are clearly regulated, which leads to a limited financial autonomy of the budgetary institution and the inability to dispose of funds from paid services.

Consequently, estimated financing as a basic form of financial support of budgetary institutions is aimed at ensuring the statutory activities of budgetary institutions and providing them with socially necessary services in compliance with the basic principles of estimated financing. Estimated financing should be carried out effectively and ensure maximum return on the use of financial resources of the budgetary institution.

Thus, effectiveness is achieved in the case of strict adherence to the principles such as planning, targeting, allocation of funds depending on the actual indicators and accountability. The implementation of these principles is ensured by the Chief Administrator of the State Budget of Ukraine for Financial Support of the prosecutor's office – the Prosecutor General's Office of Ukraine. The State Treasury of Ukraine exercises control over the compliance of the budget managers' estimates with the list of the State Budget of Ukraine.

At the same time, there is a question of assessing the effectiveness of the use of budget funds by the prosecutor's office, which to date has not been part of the scientific interests of Ukrainian researchers. Therefore, this issue requires a separate scientific study.

Since the beginning of the establishment of the Prosecutor General's Office of Ukraine, which was marked by the adoption of the Law of Ukraine «On the Prosecutor's Office» of November 5, 1991, the issue of financial security has always been extremely acute. Obviously, unlike developed countries, our state is not yet ready to invest in the security of its own citizens. However, at present, the situation has changed significantly. This is confirmed by the recent (18.09.2021) statement of the Minister of Finance of Ukraine Serhiy Marchenko that the law on the reform of the prosecutor's office increased the salaries of prosecutors, but they couldn't be properly covered by the budget: «Either pass the laws we can enforce, or don't ask the finance minister why we are looking for funds for the prosecutor's office. The adopted law on the reform of the prosecutor's office provides for a significant increase in the salaries of prosecutors. We must comply with the Law, but we cannot comply with it to the extent that we must, so we have found the means to minimize the needs of this body». In the draft State Budget, the subsistence minimum for able-bodied persons, which is used to determine the basic salary of a judge, will be UAH 2,102. For the prosecutors, the situation is worse. Thus, to determine the salary of the district prosecutor's office from January 1, a living wage of UAH 1,600 is set. Last year, a minimum of UAH 1,600 was also set for the prosecutors. However, in general, funds were added to the prosecutor's office. Thus, in 2021, UAH 11.53 billion was allocated to the Prosecutor General's Office of Ukraine and UAH 13.55 billion is planned for 2022 [7].

Expenditures of the general fund of the state budget in 2013 to finance the prosecutor's office amounted to UAH 3.2 billion. Then there was a significant decrease in funding: in 2014 – 2.99 billion UAH, in 2015 – 2.9 billion UAH, in 2016 – 3.3 billion UAH, while the budget for 2017 is set at 5.01 billion, which indicates a certain increase in the allocation of financial resources to perform the functions of the prosecutor's office.

At present, expenditures on the implementation of prosecutorial and investigative activities of the prosecutor's office are made by the Prosecutor General's Office of Ukraine according to the relevant passports of budget programs.

It should be noted that the Prosecutor General's Office of Ukraine implements two budget programs approved by the order of the Prosecutor General dated 08.02.2021 № 12b:

1. KPKVK 0901010 «Implementation of prosecutorial activities, training and retraining of prosecutors».

2. KPKVK 0901030 «Provision of functions by the Specialized Anti-Corruption Prosecutor's Office».

The Prosecutor General's Office of Ukraine is the main administrator and responsible executor of these budget programs.

Activities funded according to the first budget program are the following:

1. Remuneration of employees of the prosecutor's office and the Prosecutor's Training Center of Ukraine.

2. Repayment of accounts payable registered with the SCSU as of 01.01.2021 (excluding debts incurred to institutions and organizations located in the temporarily occupied territories of Luhansk and Donetsk regions, the Autonomous Republic of Crimea, as well as managers of budget funds located in specified territories)

3. Other expenses related to the functioning of the prosecutor's office and the Prosecutor's Training Center of Ukraine.

Activities funded according to the second budget program are as follows:

1. Payment of salaries to the employees of the Specialized Anti-Corruption Prosecutor's Office.

2. Other expenses related to the functioning of the Specialized Anti-Corruption Prosecutor's Office.

Based on our analysis and evaluation of the financial statements of the Prosecutor General's Office of Ukraine, we concluded that the funding of the prosecutor's office is growing every year.

However, in our deep conviction, this is not the result that needs to be achieved. It follows that, after all, the lack of funding significantly complicates the performance of the functions assigned to them by the prosecutor's office.

If we turn to the legislative enshrinement of the requirements for sufficient allocation of funds for the activities of the prosecutor's office, it is enshrined that such funding should not be below the level that provides full and independent exercise of powers in accordance with the law social security prosecutors.

However, in our opinion, an excessive increase in funding will not improve the efficiency of the prosecutor's office and their ability to ensure the performance of their functions, as such an increase should be accompanied by differentiation of financial resources. It is, in our opinion, appropriate only where there will be appropriate performance in solving the tasks.

Therefore, based on the analysis of regulations and reporting financial documents, we conclude that first, it is necessary to create appropriate conditions for the effective functioning of the Prosecutor's Office of Ukraine. The achievements of the prosecutor's office will be achieved only if the financial support is properly organized. This will

reduce costs and, consequently, increase work efficiency. Therefore, in our judgment, the financial support of the prosecutor's office depends primarily on the financial capabilities of the state at present because it is fully carried out at the expense of the State Budget of Ukraine.

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**КОШТОРИСНО-БЮДЖЕТНИЙ РЕЖИМ ФІНАНСУВАННЯ  
ОРГАНІВ ДЕРЖАВНОЇ ВЛАДИ  
ЯК ГОЛОВНИЙ ВИД ФІНАНСОВОГО ЗАБЕЗПЕЧЕННЯ  
ДІЯЛЬНОСТІ ОРГАНІВ ПРОКУРАТУРИ УКРАЇНИ**

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Стаття присвячена аналізу питанням фінансового забезпечення діяльності органів прокуратури України як реалізації кошторисно-бюджетного режиму фінансування органів державної влади.

Важливість досліджуваної тематики зумовлена потребою зменшення впливу сукупності чинників на діяльність прокуратури, таких як національна економіка, соціальні проблеми, небезпека політизації цього правоохоронного органу. У статті проаналізовано поняття та особливості кошторисного фінансування, поняття та цілі фінансового забезпечення та чому воно використовується для фінансування прокуратури, національне фінансове законодавство, значення прокурорської винагороди для ефективності та справедливості системи кримінального судочинства. Шляхом посилання на міжнародні стандарти, зроблено висновки з аналізу бюджетних програм, які виконує Офіс Генерального прокурора за своїми напрямками, та відповідальних суб'єктів виконання та бюджетної звітності про діяльність прокуратури.

Досліджено переваги та недоліки кошторисно бюджетного режиму фінансування прокуратури. Зазначено, що незважаючи на достатні переваги, кошторисне фінансування має також і значні недоліки, які проявляються в тому, що ця форма не передбачає достатніх стимулів для раціонального й ефективного функціонування бюджетної установи та не забезпечує тісний взаємозв'язок між обсягом отриманих фінансових ресурсів і результатами її діяльності. На основі виділених бюджетних асигнувань бюджетні установи забезпечують виконання покладених на них функцій, що не завжди реалізується з можливістю надавати якісні та доступні суспільні послуги.

Автори проаналізували та запропонували також нові напрями наукових досліджень. Зокрема недостатньо дослідженим є питання оцінювання результативності використання бюджетних коштів органами прокуратури, яке буде предметом окремого наукового дослідження.

За результатами дослідження зроблено висновок, щодо потреби вдосконалення кошторисного фінансування як базової форми фінансового забезпечення прокуратури, оскільки вона спрямована на забезпечення статутної діяльності бюджетних установ і надання ними суспільно необхідних послуг із дотримання основних принципів бюджетного фінансування. Кошторисне фінансування повинно відбуватися результативно і забезпечувати максимальну віддачу від використання фінансових ресурсів бюджетної установи.

*Ключові слова:* фінансове забезпечення, органи прокуратури України, кошторисне фінансування, бюджетні програми, бюджетна установа.

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