

## **PECULIARITIES OF BUDGETARY LEGAL RELATIONS IN THE CONDITIONS OF MARTIAL LAW IN UKRAINE**

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### **INTRODUCTION**

Budgetary legal relations are a complex and multidimensional object of legal regulation that reflects the mutual relations of subjects involved in the process of formation and use of budgetary resources. Budgetary legal relations in the conditions of martial law in Ukraine acquire special importance and relevance, because in this security, financially and morally difficult period, our state is forced to focus significant resources on solving important tasks of ensuring the national security and defense of the country. Among the main features of budgetary legal relations under martial law is the increase in expenditures on defense and state security. This means that significant funds are directed to meeting the needs of the military, purchasing new weapons and equipment, improving medical care for servicemen, etc. However, we should not forget about the social infrastructure sectors, which currently also require a significant amount of expenditures from the state budget. Therefore, as we can see, a situation arises in which increased state funding is needed in various spheres of the crane's life, and under the conditions of a high budget deficit, it seems extremely problematic to satisfy even the primary needs that are formed in these spheres.

In general, the issue of budgetary relations under martial law was studied by scientists from various fields of knowledge, including economists, financiers, lawyers and political scientists. Their achievements and a number of other scientific developments served as the basis of our research.

*The purpose of the study* of budgetary legal relations in the conditions of martial law in Ukraine is to determine the specifics of the functioning of the budgetary system during military operations and to establish the specifics of the legal regulation of these relations. To achieve the defined goal, the following tasks are proposed for consideration: to characterize the genesis of legal regulation of budgetary legal relations in Ukraine; to investigate the doctrinal concepts of the content of budgetary legal relations; to reveal the current state of budgetary legal relations in Ukraine; to determine the peculiarities of budgetary legal relations in the conditions of martial law in Ukraine; to analyze the legal regulation of budgetary provision of the main state social programs in the conditions of martial law in Ukraine; to consider

the legal regulation of budget financing of social infrastructure branches in the conditions of martial law in Ukraine; justify the expediency of streamlining the legal norms of budget control in force in Ukraine, etc.

*The object of the study* is the analysis of social relations that arise between the subjects of budgetary legal relations in the conditions of martial law.

*The subject of the study* is the peculiarities of budgetary legal relations in the conditions of martial law in Ukraine.

The selected methodological toolkit, represented by a complex of general scientific and special methods of cognition, made it possible to analyze the legal significance of the categories “budget”, “budgetary legal relations”, “budgetary legal relations during martial law” in their relationship, as well as to reveal the peculiarities of the legal regulation of budgetary legal relations of Ukraine in conditions of martial law.

## **1. Characteristics of budgetary legal relations**

The first mentions of budgetary relations can be found in the historical retrospective of the first civilizations, when they began to transform into states. It was about 10 thousand years ago. At the same time, the foundations of economic relations were born in the specified historical period, the development of which can be traced to this day.

As for budgetary relations in Ukraine, they also have a long history of formation and development. It is worth noting that there is still no unanimous point of view regarding the periodization of the budget history of Ukraine. Having analyzed a number of scientific works, we note that we are impressed by Yu. V. Pasichnyk’s position. Taking into account the political and economic processes of one or another historical period, he proposes the following periodization of the development of budgetary relations: Kyiv an Rus and the Galicia–Volyn principality (IX–XIII centuries); Polish-Lithuanian era (XIV–XVI centuries); Cossack era (XVI–XVIII centuries); Ukraine as part of the Russian, Austrian, and Austro-Hungarian empires (18<sup>th</sup> – early 20th centuries); Ukraine in 1917–1922 of the 20th century; Ukraine as part of the Soviet Union; Independent Ukraine since July 16, 1990<sup>1</sup>.

We do not consider it appropriate to analyze all these historical periods, as this is a topic for another study. However, for a general understanding of the current state of budget relations in Ukraine, we will briefly outline their development in the period from the collapse of the USSR to the modern realities of life in our country.

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<sup>1</sup> Пасічник Ю. В. Бюджетна система України та зарубіжних країн : навч. посібн. Київ : Знання-Прес, 2003. С. 54.

The first act regulating budget issues in Ukraine was the Law of the Ukrainian SSR “On the Budget of the Union of Soviet Socialist Republics for 1991”<sup>2</sup>, according to which the then budget consisted of the national budget and local budgets. After the independence referendum in Ukraine, the Law of Ukraine “On the State Budget of Ukraine for 1992” was adopted, which became the first national budget. In the following years, many laws regulating budgetary relations in Ukraine were adopted, in particular: Laws of Ukraine “On the State Budget of Ukraine for 1994”, “On the State Budget of Ukraine for 1996”, “On the State Budget of Ukraine for 1998” and others. It is important to note that in 1995 the Verkhovna Rada of Ukraine adopted a new version of the Law “On the Budgetary System of Ukraine” (June 29, 1995)<sup>3</sup>.

In 1996, the Constitution of Ukraine was adopted, which enshrined the right of citizens to participate in the management of state affairs, including budget resources. In addition, the newly adopted Constitution established the main principles of building the budget system of Ukraine, the principles of building inter-budgetary relations, regulated the right of territorial communities to independently approve budgets, control their implementation, set local taxes and fees within the limits of current legislation<sup>4</sup>. In 2001, the Law of Ukraine “On the State Budget of Ukraine for 2002” was adopted, which introduced a list of new institutions, such as the State Property Fund, the Social Protection Fund, and the Regional Development Fund<sup>5</sup>. In 2003, the Law of Ukraine “On the State Budget of Ukraine for 2004” was adopted, which established the legal foundations of local self-government and the distribution of budgetary resources between the central and local authorities<sup>6</sup>. In general, during 2000–2003, key steps were taken in Ukraine to improve and develop budgetary legal relations. The main one of them, without a doubt, is the Budget Code of Ukraine adopted in 2001, with relevant changes and additions in 2010<sup>7</sup>.

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<sup>2</sup> Про Союзний бюджет на 1991 рік. Органи влади СРСР: Закон від 11.01.1991 № 1892-I. URL: <https://zakon.rada.gov.ua/laws/show/v1892400-91#Text> (втратив чинність).

<sup>3</sup> Про бюджетну систему України: Закон України від 05.12.1990 № 512-XII. URL: <https://zakon.rada.gov.ua/laws/show/512-12#Text> (втратив чинність).

<sup>4</sup> Конституція України: Закон України від 28.06.1996 № 254к/96-ВР. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

<sup>5</sup> Про Державний бюджет України на 2002 рік: Закон України; Бюджет від 20.12.2001 № 2905-III. *Відомості Верховної Ради України*. 2002. № 12–13. Ст. 92.

<sup>6</sup> Про Державний бюджет України на 2004 рік: Закон України; Бюджет від 27.11.2003 № 1344-IV. *Відомості Верховної Ради України*. 2004. № 17–18. Ст. 250.

<sup>7</sup> Бюджетний кодекс України: Закон України від 08.07.2010 № 2456-VI. *Відомості Верховної Ради України*. 2010. № 50–51. Ст. 572.

As H. P. Vakhnenko rightly pointed out, “it cannot be said that the Budget Code of Ukraine is an ideal document and that it solves all issues. But this is a very necessary document for the formation of the budget, and its adoption was the beginning of the reform of budgetary relations, since the role and place of local budgets in the budget system of Ukraine has significantly strengthened”<sup>8</sup>. That is, we can conclude that budgetary legal relations in Ukraine have a rather ancient history. We analyzed only the last 30 years of development of budgetary legal relations in Ukraine. This forms a general understanding of how these relationships are arranged.

Scientific concepts about budgetary legal relations cover different approaches and views on the essence of these relations. Each of the concepts has its advantages and disadvantages, but the interaction between them allows to fully understand the essence of budgetary legal relations. Let’s consider some of them:

1. The budget as a tool for regulating the economy. According to this concept, it is an important tool of state regulation of the economy. It allows the state to control money flows, as well as influence economic processes in the country. The main functions of the budget as a tool for regulating the economy are as follows: financing of important projects and programs. The state can allocate funds for the development of certain sectors, for example, infrastructure, education, health care, etc. This makes it possible to support the economic development of the country and provide the necessary conditions for the life of citizens; regulation of the money supply in circulation. The state can control the amount of money in the economy, which helps reduce inflation and maintain currency stability; regulation of tax rates. The state can change tax rates, which allows to increase or decrease the amount of tax revenues to the budget, as well as regulate the economic activity of individual sectors; deficit financing. The budget can be used to finance the deficit. This enables the state to ensure the stability of the financial system and maintain economic stability in the country; regulation of foreign economic activity. The budget can be used to regulate foreign economic activity, in particular to support exports and reduce imports<sup>9</sup>;

2. The budget as an expression of national needs. According to another concept, budgetary legal relations are considered as an expression of national needs and interests of society<sup>10</sup>. For example, the budget reflects

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<sup>8</sup> Вахненко Г. П. Реформування системи між бюджетних відносин в Україні. *Економіка. Фінанси. Право*. 2003. № 9. С. 5–6.

<sup>9</sup> Чугунов І. Я., Макогон В. Д. Бюджетна політика в умовах економічних перетворень. *Економічний часопис XXI: науковий журнал*. № 158 (3–4 (2)). 2016. С. 67–68.

<sup>10</sup> Шевчук І. Л., Черепанова В. О., Ставерська Т. О. Бюджетна система: навч. посібн. Харків : Видавець Іванченко І. С., 2015. 284 с.

expenditures on education, health care, social protection, science, culture, infrastructure and other areas that are important for the development of the country. In addition, the budget reflects the economic potential of the state and its ability to ensure the implementation of its strategic tasks. For example, the budget may reflect the state's efforts to develop certain sectors of the economy, attract investments and create new jobs;

3. The budget as a resource allocation tool. According to this concept, budgetary legal relations are a tool for distributing state resources and ensuring the appropriate standard of living of citizens. For example, the distribution of budget funds between different spheres of the economy (science, education, medicine, infrastructure, social sphere, etc.) aims to ensure the proper development of each of them. For example, investments in science and education can ensure an increase in the country's scientific and technical potential, which will contribute to the development of the economy and increase its competitiveness<sup>11</sup>. In addition, the allocation of budget resources aims to support certain population groups. For example, the allocation of social benefits that can help people with low incomes, or investments in the development of infrastructure in rural areas that can help reduce poverty and raise the standard of living of the rural population;

4. The budget as an instrument of social justice. The budget can be considered as one of the key instruments of public policy, which is used to ensure social justice. The essence of social justice is to ensure equal opportunities and results for all members of society regardless of their social position, status, type of activity, nationality or other characteristics.

In the context of budgetary legal relations, social justice requires ensuring equal access to state resources and services, as well as the distribution of financial resources in accordance with the needs and capabilities of different social groups of the population<sup>12</sup>.

Thus, in order to ensure social justice in the budget process, a number of measures are envisaged, in particular: determination of priorities for the distribution of budget funds based on the analysis of socio-economic needs and priorities of society; ensuring financing of social programs aimed at improving the well-being of the population, in particular in the field of health care, education, social protection, culture and others; regulation of the size and structure of taxes and fees with the aim of reducing inequality in income distribution and creating equal opportunities for all social groups of the population. The modern sphere of budgetary legal

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<sup>11</sup> Кравець В. І. Основні напрями фінансової політики в умовах економічних перетворень. URL: <http://www.economy.in.ua/?op=1&z=4151&i=8>

<sup>12</sup> Б'юкенен Дж. М., Масгрейв Р. А. Суспільні фінанси і суспільний вибір; пер. з англ. Київ : КМ Академія, 2004. С. 47.

relations is formed from the budgetary activity of the state and its administrative and territorial units<sup>13</sup>.

Undoubtedly, the key importance for budget relations still belongs to the representative bodies, which, in fact, form and approve acts on the budget by their decisions, as well as to the executive authorities (central and municipal), which are the main executors of the budgets<sup>14</sup>. According to Article 1 of the Budget Code of Ukraine, public relations, which are the subject of regulation of the corresponding legislative act, include “relations regarding the preparation, review, approval, implementation of budgets, reporting on their implementation, control of compliance with budget legislation and responsibility for its violation”<sup>15</sup>. The specified relations are a type of powerful public legal relations, which are characterized by the inequality of the parties, the subordination of subjects, the powerful position of the state (or local self-government body), which is expressed in the priority of its will over other subjects. Such a special place of the state is determined by the fact that it acts as an organizer and directly manages the movement of its own budget funds (or local self-government funds). That is, it is necessary to talk about power relations in a classical form, which justify the use of the imperative method of legal regulation in the budgetary sphere. Based on this, it is appropriate to note the competences of the subjects of budgetary legal relations.

For example, the Constitution of Ukraine in Art. 92 states that specifically the state budget and the budget system of Ukraine in general are established only at the legislative level. Article 85 defines the specific budgetary powers of the Verkhovna Rada of Ukraine, Article 106 defines the budgetary powers of the President of Ukraine, Article 116 defines the budgetary powers of the Cabinet of Ministers of Ukraine, and Article 118 defines the budgetary powers of local state administrations. In turn, Article 143 of the Basic Law defines the competence of local self-government bodies within the limits of approving the budgets of administrative-territorial units, and the limits of control over their implementation<sup>16</sup>. It should be

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<sup>13</sup> Дмитрик О. О. Зміст та класифікація фінансових правовідносин : дис. ... канд. юрид. наук : 12.00.07 0.0. Х., 2003. С. 128.

<sup>14</sup> Чернадчук В. Д. Бюджетні правовідносини в Україні: поняття, класифікація та особливості структури: монографія. Суми : Університетська книга, 2011. С. 61.

<sup>15</sup> Бюджетний кодекс України: Закон України від 08.07.2010 № 2456-VI. *Відомості Верховної Ради України*. 2010. № 50–51. Ст. 572.

<sup>16</sup> Конституція України: Закон України від 28.06.1996 № 254к/96-ВР. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.

noted that the relevant constitutional norms are detailed in special laws, primarily in the Law of Ukraine “On Local Self-Government in Ukraine”<sup>17</sup>.

The object of budgetary legal relations expresses the directed subject of the behavior of their participants, namely, the funds concentrated in local budgets and the state budget of Ukraine. This, in turn, is due to the distribution of gross domestic product in general<sup>18</sup>. Among the specific tasks of the social and economic development of the Ukrainian state, a prominent place still belongs to the improvement of the legal regulation of budgetary relations. After all, it is budgetary relations that ensure the optimal functioning of the financial system to achieve fair and high levels of budget financing. The latter, on the other hand, directly affects the unification of the volume of budget services in general. The current state of budgetary legal relations in Ukraine is characterized by a number of problems that need to be solved urgently. One of the main ones is the insufficient efficiency of the budget process, which is caused by bureaucracy, ineffective control and excessive regulation. In addition, there is a large number of budget institutions, which leads to duplication of functions and an increase in budget expenditures. The lack of a defined state budget strategy and insufficient funding of important sectors such as health care and education are also quite fundamental problems. In addition, insufficient attention is paid to the transparency and openness of the budget process, which complicates control over the use of budget funds and reduces trust in public finances.

On the other hand, reforms aimed at improving the state of budgetary legal relations are being carried out in Ukraine. For example, in order to optimize the budget process, a number of changes were made to the Budget Code of Ukraine, which provide for the simplification of budget approval procedures. Ukraine also has a Power Decentralization Program, which provides for the redistribution of financial resources between different levels of government and ensuring their more effective use.

## **2. Conceptual content of budgetary legal relations in the conditions of martial law in Ukraine**

Budgetary legal relations that arise in the conditions of martial law, compared to the same legal relations in normal conditions of functioning of the budgetary system, have certain features. Among the main features of budgetary legal relations during the war is the need to quickly respond to

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<sup>17</sup> Про місцеве самоврядування в Україні: Закон України від 21.05.1997 № 280/97-ВР. *Відомості Верховної Ради України*. 1997. № 24. Ст. 170.

<sup>18</sup> Любич Н. П. Сучасний стан бюджетних правовідносин в Україні. *Науковий вісник Міжнародного гуманітарного університету*. Сер. : *Юриспруденція*. 2014. № 7. С. 109.

changes in the economic and social environment caused by active military actions.

Thus, the introduction of martial law and active hostilities on the territory of Ukraine led to: an increase in spending on the needs of the army and the country's defense; reduction of expenditures on social and other spheres; rising inflation; loss of income from various types of taxation. In this regard, the government of our country faced a difficult task – to ensure the effective functioning of the budget system in the extremely difficult conditions of wartime.

One of the important aspects of budgetary legal relations in the conditions of war is the distribution of budgetary funds. During military operations on our territories, the state must ensure: 1) an adequate level of funding aimed at the defense and security of the country, in particular, the purchase of weapons and equipment, training of the military; 2) their proper standard of living and quality medical care. Nevertheless, we should not forget about the social protection of the population, which requires large expenditures from budget revenues, in particular, for the support of families of military personnel, assistance to wounded soldiers, and the organization of the evacuation of the civilian population from the territories temporarily occupied by the Russians. To solve this issue, the Verkhovna Rada of Ukraine made changes to the Budget Code of Ukraine, which solved the problem of formation and implementation of local budgets. For example, Clause 22-1 of the “Final and Transitional Provisions” of the BKU establishes the norm according to which the Cabinet of Ministers of Ukraine can make decisions regarding the peculiarities of the formation and implementation of local budgets in certain territories. Therefore, receiving international financial aid has a real impact on the level of implementation of local budgets within the limits of financing expenditures for the urgent needs of local communities. In addition, the Resolution “On Approval of the Procedure for Receiving Charitable (Voluntary) Contributions” also defines the procedure for the enrolment and use of charitable financial assistance funds<sup>19</sup>.

Ultimately, local self-government bodies as recipients of budget funds are obliged to open appropriate accounts in banking institutions in accordance with the current legislation and regulations of the National Bank of Ukraine, taking into account the fact that the Treasury does not have currency accounts for receiving international aid. As defined in the Law of Ukraine “On the State Budget of Ukraine for 2022”, “during the initial recognition in the accounts, receipts are reflected in hryvnias by converting the amount in foreign currency using the exchange rate at the beginning of

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<sup>19</sup> Про бюджетну систему України: Закон України від 05.12.1990 № 512-ХІІ. URL: <https://zakon.rada.gov.ua/laws/show/512-12#Text> (втрапив чинність).



the day of the date of the transaction. The accounting currency of all budget institutions of Ukraine is the hryvnia, so the local council submits an application to the bank for the sale of foreign currency. For the sale of foreign currency, the bank enters the interbank foreign exchange market of Ukraine and sells at the commercial exchange rate established by the interbank at the time of the transaction. Funds from the sale of currency in hryvnia are credited to the local budget exclusively to special registration accounts opened in the bodies of the State Treasury Service of Ukraine. After the receipt of international aid to the accounts in the Treasury, the local council makes changes to its budget with the determination of expenditure directions”<sup>20</sup>. For the use of these funds, a Trust Fund is formed, which regulates the use of funds in the areas specified in the Provision on the Trust Fund, in accordance with the terms of the Agreement on the provision of charitable financial assistance. The report on the directions of use of funds by expenditure classification codes is made in accordance with the current budget legislation<sup>21</sup>.

The Law of Ukraine “On Amendments to Chapter VI “Final and Transitional Provisions” dated March 15, 2022 of the BCU Chapter VI was supplemented by clause 22, which states that “...local self-government bodies or military administrations can make decisions on the transfer of funds from local budgets to of the state budget, as well as, as an exception to the provisions of Part 4 of Article 103-2, Part 4 of Article 103-3 of this Code and Clause 11 of Section “Final Provisions” of the Law of Ukraine “On the State Budget of Ukraine for 2022”, on the allocation of balances funds from subventions from the state budget to local budgets, saved in local budget accounts as of January 1, 2022, for territorial defense measures, meeting the food needs of the civilian population, evacuation/removal/relocation of the civilian population from the area where hostilities are taking place, and dangerous territories to safe places”<sup>22</sup>.

In this case, the possibility of directing the remaining funds of local budgets, for example, to the activities of territorial defense units, to measures related to the support of the civilian population, is ascertained. Article 91 of the BCU provides for the possibility of approving budget allocations

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<sup>20</sup> Про Державний бюджет України на 2022 рік : Закон України від 02.12.2021 р. № 1928-IX. *Відомості Верховної Ради*. 2022. № 3. Ст. 12.

<sup>21</sup> Там само.

<sup>22</sup> Про внесення змін до розділу VI «Прикінцеві та перехідні положення» Бюджетного кодексу України та інших законодавчих актів України : Закон України від 15.03.2022 № 2134-IX. URL: <https://zakon.rada.gov.ua/laws/show/2134-20#Text>

for local programs related to the exercise of their own powers, approved by the relevant local self-government bodies, etc.<sup>23</sup>

Therefore, among the key resources of local self-government bodies, their so-called reserve fund stands out, which, within the limits of the allocation of additional funds, states: directions of use of these funds; the amount of allocation of these funds; codes for program classification of expenditures and budget crediting and other conditions as necessary<sup>24</sup>. Regulation of the allocation of funds from the reserve fund of the budget during the war is carried out by the relevant local self-government bodies. According to the Law of Ukraine “On Amendments to Chapter VI “Final and Transitional Provisions” of the BCU, the volume of the reserve fund may exceed 1%<sup>25</sup>.

Thus, when examining the latest changes that have taken place in the budget legislation, it should be noted that Article 55 of the BCU “Protected Expenditures” is currently not applied, and therefore the volume of any expenditures during the reduction of approved budget allocations may be reduced. This means that if it is necessary to make changes to the general fund of the budget, they can be implemented, accordingly, on the basis of reducing the amount of protected expenses of this budget.

The key indicator of the socio-economic situation of the population is the size of state expenditures. In 2021, expenditures of the state budget of Ukraine in the field of social protection and social security amounted to UAH 339,278.9 million, or 22.77% of the total amount of expenditures. As of October 1, 2022, they amounted to UAH 312,688.9 million, or 17.9%, respectively<sup>26</sup>. Expenditures of the consolidated budget of Ukraine on social welfare of the population are smaller. So, in 2021, they were equal to UAH 367,346.6 million (19.92%). In October 2022, their volume was UAH 331,320.9 million (17.04%)<sup>27</sup>.

Having analyzed the share of expenditures of both the state and consolidated budgets of Ukraine on social protection and social security, it is possible to conclude about its gradual reduction, which, in turn, leads to the

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<sup>23</sup> Бюджетний кодекс України : Закон України від 08.07.2010 № 2456-VI. *Відомості Верховної Ради України*. 2010. № 50–51. Ст. 572.

<sup>24</sup> Про внесення змін до розділу VI «Прикінцеві та перехідні положення» Бюджетного кодексу України та інших законодавчих актів України : Закон України від 15.03.2022 № 2134-IX. URL: <https://zakon.rada.gov.ua/laws/show/2134-20#Text>

<sup>25</sup> Там само.

<sup>26</sup> Соціальне забезпечення. URL: [https://www.wiki.uk-ua.nina.az/Соціальне\\_забезпечення.html](https://www.wiki.uk-ua.nina.az/Соціальне_забезпечення.html)

<sup>27</sup> Видатки держбюджету України. *Офіційний сайт Міністерства фінансів України*. URL: <https://index.minfin.com.ua/ua/finance/budget/gov/expense/>

deterioration of the development of elements of social infrastructure and a decrease in the level of well-being of the population. Pensioners, disabled people, large families, combatants, etc. will suffer the most from this trend.

The introduction of martial law in Ukraine significantly affected the provision of basic state social programs in Ukraine. In the conditions of war, the population needs to strengthen social protection, which leads to an increase in spending on budgetary programs. Unfortunately, the provision of basic state social programs in the conditions of martial law in Ukraine is not sufficient. In particular, during the hostilities in Ukraine, there was a decrease in spending on social protection of the population and an increase in the burden on medical institutions and other social institutions. Considering this situation, the Government of Ukraine implemented mechanisms for receiving social benefits both in the territory controlled by Ukraine, in the temporarily occupied part of our country, and in those territories where active military operations are taking place.

For the purpose of legal regulation of the main state social programs, changes were made, which are reflected in the Resolution of the Cabinet of Ministers of Ukraine “On some issues of providing state social assistance during the period of martial law” No. 214 of March 7, 2022<sup>28</sup> and Resolution of the Cabinet of Ministers of Ukraine “On some issues of payment of accommodation allowance to internally displaced persons” No. 332 of March 20, 2022<sup>29</sup>.

Analyzing the above legal acts, we can establish that the changes concern such payments as: assistance to low-income families; child support for single mothers; assistance for children under guardianship or custody; assistance for children suffering from severe perinatal damage to the nervous system, severe congenital malformations, rare orphan diseases, oncological, oncohematological diseases, cerebral palsy, severe mental disorders, diabetes mellitus type I (insulin-dependent), acute or chronic kidney diseases of the IV degree; assistance for a child who received a serious injury, needs an organ transplant, needs palliative care, who has not been diagnosed with a disability; monthly allowance for a person who lives with a person with a disability of group I or II due to a mental disorder; assistance to children whose parents evade payment of alimony, are unable to support the child or their place of residence is unknown; monthly targeted assistance to internally displaced persons to cover living expenses, in particular for the payment

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<sup>28</sup> Деякі питання надання державної соціальної допомоги та пільг на період введення воєнного стану: Постанова Кабінету Міністрів України від 07.03.2022 року № 214. URL: <https://zakon.rada.gov.ua/laws/show/214-2022-п#Text>

<sup>29</sup> Деякі питання виплати допомоги на проживання внутрішньо переміщеним особам: Постанова Кабінету Міністрів України від 22.03.2022 року № 332. URL: <https://zakon.rada.gov.ua/laws/show/332-2022-п#Text>

of housing and communal services; temporary state social assistance to an unemployed person who has reached the general retirement age; benefits that were previously assigned<sup>30</sup>.

According to the latest changes in the legislation, if recipients of state social assistance missed the period for reviewing the assistance, the payment of such assistance will not be suspended for the period of martial law and for one month after the termination or cancellation of martial law. Payment of benefits is monthly, paid for a full month regardless of the date of application, the date of termination or cancellation of martial law<sup>31</sup>. The Cabinet of Ministers of Ukraine also adopted a decision, which was developed at the initiative of the Ministry of Social Policy, to ensure the possibility of distributing additional payments from international organizations to residents of temporarily occupied, de-occupied or those territories that are in the zone of active military operations. Resolution of the Cabinet of Ministers of Ukraine “On support of certain categories of the population that suffered in connection with the military aggression of the Russian Federation against Ukraine” No. 457 of April 16, 2022, defines the possibility of providing monetary payments as support through the provision of assistance by international organizations through the “eHelp” platform<sup>32</sup>.

This project was implemented by the Ministry of Social Policy of Ukraine with the support of the Ministry of Digital Transformation of Ukraine and the United Nations Development Program in Ukraine, in accordance with the tasks of the memorandum of the Ministry of Social Policy of Ukraine with the Mission of the International Committee of the Red Cross in Ukraine and the Red Cross Society of Ukraine, UNICEF, the World Food Program of the United Nations and management of the UN High Commissioner for Refugees. On June 15, 2022, the next stage of assistance was implemented, within the framework of which additional measures of social support for the most vulnerable categories of the population were implemented. For example, this is a monetary aid program from UNICEF “Together”, which during the war is additional support for Ukrainian families with many children. This financial

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<sup>30</sup> Труфанова Ю. Державні соціальні допомоги малозабезпеченим сім'ям в умовах воєнного стану. *Актуальні проблеми правознавства*. 2022. № 3 (31). С. 132.

<sup>31</sup> Деякі питання надання державної соціальної допомоги та пільг на період введення воєнного стану : Постанова Кабінету Міністрів України від 07.03.2022 року № 214. URL: <https://zakon.rada.gov.ua/laws/show/214-2022-п#Text>

<sup>32</sup> Про підтримку окремих категорій населення, яке постраждало у зв'язку з військовою агресією російської федерації проти України: Постанова Кабінету Міністрів України від 16.04.2022 року № 457. URL: <https://zakon.rada.gov.ua/laws/show/457-2022-%D0%BF#Text>

assistance program was made possible thanks to the financing of a number of European countries.

The following categories of population have the right to receive financial assistance from UNICEF: large families (children under the age of 18); families with at least one child with a disability (child under 18).

Such assistance is provided to families, regardless of the status of internally displaced persons who are in any territory of Ukraine, but on the condition that they did not receive monetary assistance from UNICEF or another international organization after February 24, 2022.

The amount of such assistance per month is UAH 2,220 for each family member, but not more than five family members. For example, as of August 2022, UNICEF has provided assistance to more than 112,000 families raising 331,000 children, including 33,000 children with disabilities<sup>33</sup>.

The Ministry of Social Policy of Ukraine is finalizing the draft law on universal state social assistance as a key means of overcoming difficult life circumstances. The bill applies to almost two million families raising children, and more than five million elderly people and people with disabilities, who will receive state-guaranteed assistance. “Universal social assistance consolidates various types of state assistance, provided for in more than 10 normative acts, which can be provided to a person throughout the life cycle”<sup>34</sup>.

Therefore, ensuring access to social services in the temporarily occupied territory and in regions where active hostilities are taking place can become a difficult task due to the change in the administrative and territorial structure, as well as the complication of living conditions for the population. We highly positively evaluate the adaptation of the mechanism for receiving social benefits throughout Ukraine, which helps reduce social tension, improve living conditions, and ensure more effective functioning of the social system in Ukraine.

State financing of the social sphere in Ukraine in wartime conditions has become one of the most difficult tasks. On the one hand, it is necessary to provide for the needs of the military, and on the other hand, to provide for the needs of citizens who suffer from the consequences of war. According to the data of the Ministry of Finance of Ukraine, in 2022, about 415 billion hryvnias were allocated to the social sphere, which is more than 30% of the total state budget. This helped to maintain the level of financing of the social

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<sup>33</sup> Сайт Дитячого фонду ООН (ЮНІСЕФ). «ЮНІСЕФ – українцям: програма грошової допомоги Спільно». URL: <https://www.googleadservices.com/pagead/aclk?sa=L&ai=DChcSEWjIhdHxp75Ah>

<sup>34</sup> В Україні планують ввести універсальну соціальну допомогу. *Укрінформ*. URL: <https://www.ukrinform.ua/rubric-society/3529137-v-ukraini-planuut-vvesti-universalnu-socialnu-dopomogu.html>

sphere at the level adopted in 2021, as well as even increase spending on some areas, in particular, on pensions and social benefits.

However, the functioning of the state in the conditions of martial law undoubtedly affected budget expenditures for the social sphere, education, and medicine in Ukraine.

For example, during the war in Ukraine, the need for resources to provide medical care and rehabilitation of wounded soldiers, as well as to ensure the safety of the population, increased. However, if in the previous two years of the coronavirus infection Covid-19 medicine was a priority in the state financing of our country, this year's financial attention to the medical field has significantly decreased. For January–November 2022, the sphere of health care of Ukraine was financed in the amount of UAH 155 billion.

In the sphere of education of Ukraine, the need for financing has also increased. For example, during the martial law, the number of children who need to be provided with the educational process in the evacuated zones or in the combat zone increased. At the same time, capital expenditures related to the reform of the New Ukrainian School (NUS) were mostly reduced in our country. The educational subvention (funds allocated to teachers' salaries) was also reduced – from June 2022 it was reduced by 10% (planned figure), and in fact in June–December it was reduced by 17%<sup>35</sup>.

Taking into account such financial challenges, on August 27, 2022, the Cabinet of Ministers of Ukraine amended the Resolution “On approval of the Procedure for the exercise of powers by the State Treasury Service in a special regime under martial law” No. 590 dated June 9, 2021. These changes expanded the list of budget expenditures for the social sphere, education and medicine, which function under martial law.

In particular, according to this resolution, budget expenditures have been expanded for such categories as: 1) purchase of school buses for transporting participants of the educational process to educational institutions starting from the new academic year; 2) provision of tertiary (highly specialized) medical care at the appropriate level by the method of transplantation of organs and other anatomical materials; 3) maintenance of public notification systems in proper condition, which is one of the priority measures to ensure the safety of the population in the conditions of martial law; 4) provision of psychological rehabilitation of war veterans, persons who have special merits to the Motherland, their family members, family members of deceased (deceased) war veterans, family members of deceased (deceased) Defenders of Ukraine, injured participants of the Revolution of Dignity, as

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<sup>35</sup> Війна і державні фінанси: скільки потрібно грошей на відновлення і де їх брати. *Економічна правда*. 03.11.2022. URL: <https://www.epravda.com.ua/columns/2022/11/3/693382/>

well as acquisition and production of ID forms and badges for such persons; 5) transfer of Interbudgetary transfers from the state budget to local budgets, the source of which is the funds of loans and grants of the European Union, foreign governments, foreign financial and donor institutions and international financial organizations<sup>36</sup>. The specified Resolution also establishes that with the introduction of martial law in Ukraine, the State Treasury Service of Ukraine must ensure fast and reliable financing of the specified budget expenditures and ensure the preservation of funds in the current account of the state budget intended to finance these expenditures.

In general, the study of the legal regulation of budget control in Ukraine currently does not lose its relevance, and with the full-scale armed invasion of the Russians in Ukraine, the importance of this issue even increases, because in such an extremely difficult period for the country, the state must ensure regular filling of state and local budgets in compliance with legislative norms on at all stages of the budget process. Illegal, untargeted and inefficient use of state and local budget funds or other budget offenses pose a direct threat to the state's budgetary security, as they cause significant damage to budgetary legal relations. The effectiveness of budget control methods primarily depends on their proper and sufficient legal regulation. Currently, budget control in our country is implemented in accordance with the Law of Ukraine "On the Basic Principles of State Financial Control in Ukraine"<sup>37</sup>, which defines the general principles and methods of state financial control, covering budget control, and establishes a legal framework for ensuring the effective use of state financial resources in Ukraine.

The outlined law also defines the functions, powers and procedures of the relevant bodies that carry out budgetary control, and also provides for responsibility for violations of the established rules and procedures for the implementation of budgetary control.

We believe that one of the key tasks of the state in the process of improving the legal regulation of state control is the optimization of budgetary legal relations in the realities of the martial law regime, as well as the adaptation of regulatory and legal documents to modern changes in the state's budgetary policy.

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<sup>36</sup> Про затвердження Порядку виконання повноважень Державною казначейською службою в особливому режимі в умовах воєнного стану: Постанова Кабінету Міністрів України; Порядок від 09.06.2021 № 590. URL: <https://zakon.rada.gov.ua/laws/show/590-2021-%D0%BF#Text>

<sup>37</sup> Про основні засади здійснення державного фінансового контролю в Україні : Закон України від 26.01.1993 № 2939-XII. *Відомості Верховної Ради України*. 1993. № 13. Ст. 110.

We consider P. P. Latkovskyy's remark to be fair, who in his monograph also points out the shortcomings of the modern budget control system, including:

- insufficient effectiveness of control actions (one of the main shortcomings of the current state of legal regulation of budget control is the low level of control effectiveness). This is due to the weak material and technical base of control bodies, insufficient qualification of control workers, insufficient funding and low staff motivation;

- insufficient work with the public regarding the clarification of the tasks of budget control and the prevention and prevention of violations in the budget sphere. Ukraine needs a more open system of budget control, where publicity and availability of information about the activities of control bodies would be the main priority. Transparency of budget control will contribute to increasing the level of trust of citizens in authorities, will ensure transparency and objectivity in the implementation of budget programs;

- insufficient application of control and audit methods, which are aimed at improving the efficiency of the use of state resources, in particular budget funds. For example, the methods of economic analysis and audit, which make it possible to assess the effectiveness of the use of budget funds, are not sufficiently used, in particular, to identify unused funds or insufficient efficiency of spending. Such methods can help identify deficiencies in the budget funds management system and suggest ways to eliminate them. It is also important to use methods of monitoring and risk assessment, which make it possible to identify potential risks of violation of the legislation on budget control and prevent their occurrence;

- non-fulfilment of legislative prescriptions regarding ensuring the necessary interaction between budget control bodies. Control over compliance with budget rules and procedures is carried out by various control bodies. Insufficient coordination of actions between these bodies leads to duplication of control measures, unjustified spending of control funds and low level of control effectiveness;

- insufficient working out of the mechanism for the implementation of provisions of laws that establish responsibility for obstructing control actions. The lack of adequate responsibility for violations of laws that establish responsibility for obstacles to control actions makes it difficult to carry out effective budget control. Legislation should provide for effective liability mechanisms for violations of budgetary control regulations, including adequate compensation for losses caused to the state due to illegal actions or inactions that impede control actions<sup>38</sup>.

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<sup>38</sup> Латковський П. П. Правове регулювання бюджетного контролю в Україні : монографія. Чернівці : Технодрук, 2019. С. 79.



To develop a strategy for the development of budget control in Ukraine, it is important and expedient to take into account positive foreign experience that can be useful in effectively solving financial problems that have arisen in Ukraine.

Among the examples of successful implementation of budget control in other countries, the system of control in the USA occupies a prominent place. In this country, there is a law that establishes the responsibility of officials for violations of budget legislation. Also, in the USA, there is a system of regular evaluation of the effectiveness of the activities of state bodies and programs, which helps to ensure the rational use of budget funds and identify possible shortcomings that arise in such activities.

European experience in monitoring the use of public money can also be useful for Ukraine. In particular, some countries of the European Union exercise control over the use of budget funds, involving specialized bodies with extensive experience in conducting audits and analyzing the effectiveness of expenditures.

## **CONCLUSIONS**

Therefore, in the conditions of martial law introduced in Ukraine in connection with the full-scale armed invasion of the Russians, budgetary legal relations in our country acquire special importance, since the state spends significant funds to ensure national security, defense and the functioning of the army. However, this does not mean that other government programs and sectors, such as health care, education, culture, can receive less funding. One of the biggest challenges of the functioning of the country in the conditions of war is ensuring budget financing of the main state social programs. In general, it is about state financial support for veterans, families of servicemen and other people who suffered from the war. Fortunately, the life of our country continues during the difficult wartime. Therefore, it is important to ensure the receipt of the required amount of funds for state social programs and their effective use.

Taking this into account, the Government of Ukraine adapted the mechanisms for receiving social benefits both in the territory under the control of the Ukrainian authorities, in the temporarily occupied territory of Ukraine, and in those territories where active military operations are ongoing.

For the purpose of legal regulation of the main state social programs, changes were made to the legislation of our country, prescribed by the Resolution of the Cabinet of Ministers of Ukraine “On some issues of providing state social assistance during the period of martial law” No. 214 dated March 7, 2022 and the Resolution of the Cabinet of Ministers of Ukraine “On some issues of payment of housing allowance to internally

displaced persons” No. 332 of March 20, 2022. Also on August 27, 2022, the Cabinet of Ministers of Ukraine made relevant changes to the Resolution “On approval of the Procedure for the exercise of powers by the State Treasury Service in a special regime under martial law” No. 590 dated June 9, 2021, which expanded the list of budget expenditures for the social sphere, education, and medicine, which function in extremely difficult conditions of martial law.

## **SUMMARY**

Taking into account the positive foreign experience in tracking the use of budget revenues, it is possible to develop a strategy for the development of budget control in Ukraine, which will be aimed at ensuring more effective use of state resources and budget funds, reducing the level of corruption and strengthening the responsibility of officials. At the same time, in this process, it is important to take into account national characteristics and the needs of the Ukrainian state in the specified area. Therefore, we can conclude that legal relations in the field of budgetary support during martial law require accentuation and improvement of the current Ukrainian legislation. Nevertheless, it is necessary to take into account the positive foreign experience in monitoring the use of state funds, to develop mechanisms to ensure budgetary stability and effective use of state resources in the difficult conditions of military operations that are ongoing in our country. It is also necessary to increase the level of managerial competence and control over the use of budget funds during the Russian-Ukrainian war. At most, budgetary legal relations cover the legal regulation of state-society relations with the help of legal and economic instruments. Among the special features characterizing the current state of budgetary relations, researchers include a smaller number of subjects, unlike financial relations. For example, natural persons are not participants in budgetary relations, considering that, according to the current legislation, they do not have the right to receive funds from the budget/budgets (regardless of their level) for self-financing. Instead, each of the participants in budget relations affects the formation, distribution and use of budget funds of a certain level at a separate stage of the budget process or the entire process in general.

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