

Pavlo Latkovskiy

National University «Odesa Law Academy», Ukraine

HISTORICAL AND LEGAL CONDITIONS OF BUDGET CONTROL

First of all, to consciously penetrate the essence of budgetary control, it is necessary to understand how and on what basis was the emergence of budget control at all. Today there are many scientific works and papers on the subject by various authors from the most diverse corners of the world. Examining and analyzing the work of scientists can clearly trace the territorial contiguity of budgetary control. There are large differences in the model of budgetary control between, Europe and Asia, the UK and Indonesia, and examples can be set. In this article, most thoroughly reviewed the process need to establish control over budget funds and clarified how this process is developing according to the geographical location of countries on the world map.

Key words: budget, budget control, budget control history, authorities control the budget.

The establishment in Ukraine of social and legal state principles and relevant financial management, strengthening the position of different ownership forms, filling the revenue part of the budget, necessitates an adequate system of budgetary control. It is clear that effective budgetary control is able to pour into various areas of public financial activities.

Time of budgetary control process associated with social work, legal nature which necessitates management. The first known current authorities - counting department appeared in ancient China over 3,000 years ago. In Europe, the first by monitoring the funds can be considered the classic form of French Chamber of Accounts (1318), regular auditing organization Belgium (1386), The National Audit UK (1120).

Independent government institutions that monitored budget execution in Europe emerged later. For example, in Prussia - in 1714 was created by the General Chamber of Accounts in the Czech Republic - in 1761 -Imperial Accounting Chamber, in Austria-Hungary - in 1768 - the Imperial-Royal High Court audit in Poland - in 1808 - Main counting Chamber Duchy of Warsaw, in Spain - in 1828 - the Court of accounts in Turkey - in 1862 - accounting Supreme Council of the Ottoman Empire in Romania - in 1864 - the Supreme Court of audit¹.

Institutions financial control, which research scientists pay attention and practice, based on various criteria, in the modern sense appeared much later². So, after the First World War had created a model of independent financial control as a method of control for the highest executive power, and especially for the state budget. A special activation process of applying such a model audit received in the last quarter of the 20th century. According to the Ukrainian researchers this was due to many factors, including the democratization of society, the emergence of new democracies, globalization of many social and economic problems harmonization process in Europe.

Integration processes in financial control led to the joint efforts of government officials monitoring the implementation of the budget in order to exchange experiences in this area. This union was manifested in the fact that in October 1977 at the IX Congress of the International Association of Supreme Audit Institutions in the Lima Declaration adopted guidelines for financial control.

Lima Declaration - a fundamental document that takes into account the differences in systems of financial control, financial control points to place in the system of separation of powers and the level of development in some countries. It is the most concentrated form of foundations formulated the legal structure and the nature of the Accounting Chamber. It provides that independent bodies of the state budget and financial control are an attribute of democracy, a must-management of public funds. Emphasizes the need to consolidate in law the institutional, functional and organizational independence of financial control, which is the legality, objectivity, transparency and consistency of control.

It should be noted that the Lima Declaration contains no specific recommendations for favoring a

¹ Марцеляк, О.В., Коломієць, Ю.М., Зубенко, Г.В. (2006). *Спеціалізовані органи парламентського контролю в Україні: статус і функціонування*. Харків: ТОВ «ПРОМЕТЕЙ-ПРЕС», 268.

² Савченко, Л.А., Ярмак, І.М. (2016). *Проблеми правового закріплення принципів фінансового контролю*. Київ: Центр учбової літератури, 6-10.

particular organizational structure of control. From the perspective of international law, it is only a recommendation, but its importance and impact on the creation and development of supreme audit institutions in countries not be underestimated. The provisions of this international instrument included in the basis of a constitutional and legislative framework for financial control of many states.

Subjectively, there are three global model of budgetary control:

- Napoleon - the essence of which is to determine compliance adopted executive and accountable to the organizations making laws and regulations (France, South America, Latin American colonies in Africa)
- Westminster model, driven publicity as the basic principle of (UK, Canada);
- Peer model presented few in number control committee headed by the chairman, who is the master controller (Indonesia, South Korea, Japan, Asia)¹.

Based on the names of these models, historical path traced their origin. Thus, Napoleonic model becomes clear that the main reformer control over budget spending that time was the famous Napoleon Bonaparte, the French emperor in 1804-1815 years. It was under his rule and revolution was reformed basic fundamental framework for budgetary control, not only on the territory of the French Republic, but also in the territories conquered his country. The Westminster model was created based on the Westminster system - a democratic parliamentary system based on the example of Great Britain. Start using it put Canadian provinces and Australian colony of Great Britain in the middle of the XIX century. Unlike the unwritten British constitution, most countries with a Westminster system have it enshrined in their constitutions written². Collegial control model was created based on political and ideological convictions countries where primary oversight of budget funds entrusted to the Special Committee.

Exploring the historical development of control over budget funds of foreign countries, it should be noted that it is extremely important for Ukraine.

So, thanks to the French experience of budgetary control Ukraine has a system of budgetary control. Today France is quite similar to Ukraine not only territorial size and population. Thanks to the experience of the French treasury services budget in Ukraine there are fairly similar system of control over budget funds, as in Ukraine French model has the Accounting Chamber, which directly control the use of budget funds in both countries; France are the same principles of national formation and implementation of state and local budgets (annually, unity, universality, balance, specialization); budget control system measures the two countries are quite similar.

In order to fully emphasize the similarities of these two systems, you need to understand how is the budget control of the two countries. For example, today the budget control in France made a prefect, Treasury and Accounting Chamber. Function prefect on budgetary control is the mandatory examination of the decision on the budget in light of the relevant legislation, namely the deadlines prescribed by law for the adoption of the budget, balance the budget, taking into account debt last budget period, compliance with the rules of lending budget. The Treasury France endowed with special rights for operations with revenues and expenditures of the State Budget and budgets of communities to conduct accounting, control over the preservation of values and decisions on the disposal of the budget. The Treasury reports to the Accounting Chamber on the budget. Control of the Treasury for public funds made in three areas: financial control, internal control, internal audit.

In Ukraine there is no authority that can directly examine already adopted by the Verkhovna Rada of Ukraine decision approving the state budget, such as the prefect in France. Approved by the Verkhovna Rada of Ukraine of the decision on the State Budget of Ukraine for submission of the respective draft Cabinet of Ministers of Ukraine will not be assessed any of the bodies. However, the feasibility and reasonableness use of the state budget of Ukraine, control over compliance budget legislation, control of compliance submitted by the Cabinet of Ministers of Ukraine draft State Budget of Ukraine follows a number of organs, including the Accounting Chamber of Ukraine³, the Verkhovna Rada of Ukraine on Budget Ministry of Finance of Ukraine⁴,

¹ Марцеляк, О.В., Коломієць, Ю.М., Зубенко, Г.В. (2006). *Спеціалізовані органи парламентського контролю в Україні: статус і функціонування*. Харків: ТОВ "ПРОМЕТЕИ-ПРЕС".

² Вестмінстерська система. *Вікіпедія. Вільна енциклопедія*. <https://uk.wikipedia.org/wiki/Вестмінстерська_система>

³ *Закон про Рахункову палату 2015* (Верховна Рада України). *Офіційний сайт Верховної Ради України*. <<http://zakon5.rada.gov.ua/laws/show/576-19>> (2015, July, 02).

⁴ *Положення про Міністерство фінансів 2014* (Кабінет Міністрів України). *Офіційний сайт Верховної Ради України*. <<http://zakon3.rada.gov.ua/laws/show/375-2014-%D0%BF/paran8#n8>>.

the State audit Service of Ukraine¹ and the State fiscal Service of Ukraine².

With regard to audit the budget, then the authority vested in both accounting chambers France and Ukraine. The Chamber France oversees the budget process and provides perfect suggestions for improvement. That is, the Accounting Chamber is to correct the mistakes made in the adoption and implementation of budgets. Undoubtedly, the French system of control is not a «standard of excellence» as the French recognize themselves, and is in constant reform. However, we must admit the fact that it is much better from our national model. Every country in the world uses its own approach to budget planning and execution, given the specificity of the national economy and modern conditions of social and economic development. However, each country seeks to improve the efficiency of budget funds and ensure the completeness of the objectives for which the funds allocated. Thus, in economically developed countries is a constant improvement of budgetary control, put new tasks and introduced new methods of its implementation. Therefore, the study of foreign experience is very valuable for Ukraine, but its effective use is possible only with regard to historical peculiarities and national interests.

Having studied and thoroughly analyzed the international experience of budgetary control, more accurate typing wide range of organizational types of control systems can take place as a territorial division of states, and the features of the legal systems of other countries, while stressing the administrative model (USA, UK, Canada, Australia, Israel, Malaysia, Thailand) model in the form of the Accounting Chamber (France, Italy, Germany and other European countries) and management control in government (Sweden, Finland).

In countries with Anglo-Saxon system of law and legal systems that tend to it, dominates monocratic administrative structure or control system. In these countries to control hierarchically organized structures created under the leadership of president or general auditor. An alternative to the administrative control system is a model in the form of the Chamber. The feature of this model is to control complex procedures provide material and financial interests. These approaches have very positive experience for the development of budgetary control in Ukraine. However, it is appropriate to note that Ukraine, focusing more on the European model must take into account the history of previous development, national traditions and projected trends in socio-economic development. Therefore, the most appropriate model for Ukraine in the form of budgetary control Court of Auditors, which primarily will improve the efficiency of public administration and budgetary prevent abuse.

In most countries, is the centralization in control of the budget process that promotes fiscal discipline. Parliamentary control is normally carried out by independent audits of government accounts and departmental operations independent auditor on behalf of the legislature and its committees created for this purpose. Parliament must approve the final audit report and the report of the Supreme Audit Institution (SAI)³. In this respect, quite illustrative is the Dutch experience. As the Dutch Parliament annually consider and adopt 16 laws sectoral budgets and the seven laws of funds⁴. Budget execution is verified annually. Each minister is responsible for the regular, efficient and effective performance. At the end of the fiscal year sectoral ministries make their annual accounts together with the audit report sent to the Ministry of Finance. Office of Internal Audit Ministry of Finance considers the annual financial statements of each ministry, forms the central government annual financial report and the auditor's report and sends them to the National Audit Court (US). As we see in the Netherlands internal audit responsibility of the Ministry of Finance and line ministries, the structure of which operate their own units for internal audit and budget control and auditing on behalf of Parliament (external audit) take us, which consists of independent experts. So, budget control in the Netherlands aims to find out whether the Ministry has reached the set goals within the allocations as well - whether with the political commitments made, contributing to achieve the objectives of fiscal policy for the efficient use of public funds. Approximation of Ukrainian society to the living standards of European countries put on the agenda of one of the priority issues of budget reproduction process of democratic and market principles. The current until recently in Ukraine budgeting

¹ Про утворення Державної аудиторської служби України 2015 (Кабінет Міністрів України). Офіційний сайт Верховної Ради України. <<http://zakon3.rada.gov.ua/laws/show/868-2015-%D0%BF>>.

² Положення про Державну фіскальну службу України 2014 (Кабінет Міністрів України). Офіційний сайт Верховної Ради України. <<http://zakon3.rada.gov.ua/laws/show/236-2014-%D0%BF>>.

³ Басанцов, І.В. (2008). *Державний фінансовий контроль: регіональні аспекти*. Київ: Видавничий дім "Корпорація", 195.

⁴ Стефанюк, І.Б. (2009). Нідерландська система фінансового контролю та її зв'язок з бюджетним процесом. *Фінансовий контроль*, 47.

practices do not ensure transparency, openness and flexibility of the budget process, creating conditions for ineffective use of budget funds irresponsibility of authorities on the results, the violation of basic economic principles - efficiency, independence and effectiveness.

State collegial body, which is the Accounting Chamber of Ukraine, on behalf of the Verkhovna Rada of Ukraine controls the flow of funds to the State Budget of Ukraine and usage. This body, whose activities are based on the principles of legality, independence, objectivity, impartiality, transparency and impartiality accountable to the Parliament of Ukraine and regularly inform about the results of their work¹.

Legislative Chamber does not have the status of the Supreme Audit Institution, and hence the relevant authority, organizational and coordinating functions, and extensive regional system guarantees full independence (meaning by European standards). In recent years, the Chamber has made that in the exercise of its authority is independent of any improper influence, pressure or intervention. Unlawful interference with the Accounting Chamber powers granted by law prohibited and punishable in accordance with the law. The work of the Chamber applies the basic principles of the International Organization of Supreme Audit Institutions (INTOSAI), the European Organization of Supreme Audit Institutions (EUROSAI) and International Standards of Supreme Audit Institutions (ISSAI) in the part that does not contradict the Constitution and laws of Ukraine.

The powers assigned to the Accounting Chamber of Ukraine Constitution, proceedings are carried out through measures of public external audit (audit), which is provided by the Accounting Chamber through financial audits, performance audits, examination, analysis and other control measures.

The financial audit is to verify, review and evaluation of accuracy of, completeness, reliability of accounting and reporting of revenues and expenditures, establishing the actual state of affairs regarding the intended use of budgetary funds, compliance in transactions with budget funds. Audit efficiency involves the installation of the actual situation and provide estimates of the timeliness and completeness of revenue, productivity, efficiency, economical use of budget funds managers and recipients, legality, completeness and timeliness of decision-making participants in the budget process, the state of internal control of budget funds. Evaluation of the performance of budgetary funds involves establishing the ratio between the performance of the managers and recipients of budget funds and used to achieve these results the budget. Evaluation of the effectiveness of budget funds involves setting the degree of compliance of the actual performance of the managers and recipients of budget funds planned results. Evaluation of economical use of budgetary funds involves the installation of state achieving managers and recipients of funds planned results by using the minimum amount of the budget or achieve maximum results while using a certain amount of budget funds².

A new law, along with the benefits, including consolidation measures of state external financial control (audit), and the regulation of financial independence Chamber and the Accounting Chamber of financial audits and performance audits, there are a number of shortcomings, including the legal identification of external public financial control and audit, lack of tasks and functions of the members of the House and controlled entities, the uncertainty between the Accounting Chamber of law enforcement and judicial authorities.

The focus on efficiency and the end result - this is the approach used in budget planning developed countries, including the EU, USA, Canada, Australia, New Zealand³. Given the experience of foreign countries, we can state that today the main goal of the restructuring of the control system must change the ideology of the budget process, and hence control, aimed at the result, not the process, that perform certain tasks and obtain concrete results on the basis of effective formation and use of budgetary resources. Focusing on performance is not a simple revision of budgetary processes and process change management style and control behavior in the public sector. Budget planning, results-oriented, containing items such as decentralization of budget accountability, tracking performance, efficiency spending and managerial independence and responsibility. Ukraine has already taken the first steps in this direction, since the 2003 State Budget of Ukraine is formed and implemented by the program-target method using budget programs, and adopted, we can say, revolutionary for State Audit Service of Ukraine (until October 2015 - State

¹ Закон про Рахункову палату 2015 (Верховна Рада України). Офіційний сайт Верховної Ради України. <<http://zakon5.rada.gov.ua/laws/show/576-19>>.

² Закон про Рахункову палату 2015 (Верховна Рада України). Офіційний сайт Верховної Ради України. <<http://zakon5.rada.gov.ua/laws/show/576-19>>.

³ Бариніна, М.В. (2008). Органічний закон: інновації у внутрішньому контролі Франції. *Фінансовий контроль*, 60.

financial inspection earlier - audit Service) regulatory document defines a new layer of authority. State Audit Service of Ukraine is authorized to organize and audit of budget programs responsible for opinions concerning budget programs. However, it is through the State Audit Office has fully implemented the principle of transparency of the budget process, as this authority shall issue special bulletins on the audit of budget programs¹. It should be noted positivity of order, because, for example, in France, of the budgeting practices introduced only from 2006, with the enactment of the Organic Law (LOLE), although it was adopted in August 2001. However, borrowing the French budgetary control experience is quite valuable for Ukraine, as Ukraine and France almost the same territory and population; French experience in treasury services budget is the basis of financial relations in Ukraine; Organic law, as in Ukraine, provides for creation of programs, policies, objectives and indicators for which the allocated some budget resources; France are the only national principles of formation and execution as state and local budgets, which include annually, unity, universality, balance specialization. According to the latest model of budgetary control in France, as mentioned above, made prefect Treasury and Accounting Chamber.

Unfortunately, the system of budgetary control in Ukraine has not built properly. Due to the historical experience of other countries can easily understand that control of budget funds in Ukraine involved are not fully exercised exclusively by the legislative and executive branches. Adding control of other groups to participate in monitoring the budget funds (public and judiciary) is necessary and a priority for the implementation of budgetary control in Ukraine in full. Participation of the judiciary and the public in the budgetary control is mandatory in the European perspective of Ukraine.

References:

1. Barynina, M.V. (2008). Orhanichnyy zakon: innovatsiyi u vnutrishn'omu kontroli Frantsiyi [Organic Law: innovations in internal control in France]. *Finansovyy kontrol' [Financial control]*, 59-63 [in Ukrainian].
2. Basantsov, I.V. (2008). *Derzhavnyy finansovyy kontrol': rehional'ni aspekty [State financial control: regional aspects]*. Kyiv: Vydavnychyy dim "Korporatsiya" [in Ukrainian].
3. *Zakon pro Rakhunkovu palatu 2015 [The Law on Accounting Chamber 2015]* (Verkhovna Rada Ukrayiny). *Official website of the Verkhovna Rada of Ukraine*. <<http://zakon5.rada.gov.ua/laws/show/576-19>> (2015, July, 02). [in Ukrainian].
4. Martelyak, O.V., Kolomiyets', Y.M., Zubenko, H.V. (2006). *Spetsializovani orhany parlament's'koho kontrolyu v Ukrayini: status i funktsionuvannya [Specialized agencies of parliamentary control in Ukraine: status and functioning]*. Kharkiv: TOV "PROMETEY-PRES" [in Ukrainian].
5. Oliynyk, D.S. (2006). Detsentralizatsiya upravlinnya mistsevymy byudzhetamy po-frantsuz'ky [Decentralization of local budgets from French]. *Finansovyy kontrol' [Financial control]*, 50-53 [in Ukrainian].
6. *Postanova pro zatverdzhennya poryadku provedennya Derzhavnoyu finansovoyu inspektsiyeyu, yiyi terytorial'nyimi orhanamy derzhavnoho finansovoho audytu vykonannya byudzhetnykh prohram 2004 [Decision on approval of the order for State Financial Inspection, its territorial bodies to conduct State Financial Audit of budget programs 2004]* (Kabinet Ministriv Ukrayiny). *Official website of the Verkhovna Rada of Ukraine*. <<http://zakon5.rada.gov.ua/laws/show/1017-2004-%D0%BF>>. [in Ukrainian].
7. *Polozhennya pro Ministerstvo finansiv Ukrayiny 2014 [Regulation on the Ministry of Finance of Ukraine 2014]* (Kabinet Ministriv Ukrayiny). *Official website of the Verkhovna Rada of Ukraine*. <<http://zakon3.rada.gov.ua/laws/show/375-2014-%D0%BF/paran8#n8>>. [in Ukrainian].
8. *Polozhennya pro Derzhavnu fiskal'nu sluzhbu Ukrayiny 2014 [Regulation on the State Fiscal Service of Ukraine 2014]* (Kabinet Ministriv Ukrayiny). *Official website of the Verkhovna Rada of Ukraine*. <<http://zakon3.rada.gov.ua/laws/show/236-2014-%D0%BF>>. [in Ukrainian].
9. *Pro utvorennya Derzhavnoyi audytors'koyi sluzhby Ukrayiny 2015 [On establishment of the State Audit Office Ukraine in 2015]* (Kabinet Ministriv Ukrayiny). *Official website of the Verkhovna Rada of Ukraine*. <<http://zakon3.rada.gov.ua/laws/show/868-2015-%D0%BF>>. [in Ukrainian].
10. Savchenko, L.A., Yarmak, I.M. (2016). *Problemy pravovoho zakriplennya pryntsyypiv finansovoho kontrolyu [The problem of legal fixation of principles of financial control]*. Kyiv: Tsentr uchbovoyi literatury [in Ukrainian].
11. Stefanyuk, I.B. (2009). Niderlands'ka systema finansovoho kontrolyu ta yiyi zv'yazok z byudzhetnym protsesom [Dutch system of financial control and its connection with budgetary process]. *Finansovyy kontrol' [Financial control]*, 46-49 [in Ukrainian].
12. Vestminster's'ka systema [Westminster system]. *Vikipediia. Vil'na entsyklopediia [Wikipedia. The free encyclopedia]*. <https://uk.wikipedia.org/wiki/Вестмінстерська_система> [in Ukrainian].

¹ *Постанова про затвердження порядку проведення Державною фінансовою інспекцією, її територіальними органами державного фінансового аудиту виконання бюджетних програм 2004 (Кабінет Міністрів України). Офіційний сайт Верховної Ради України*. <<http://zakon5.rada.gov.ua/laws/show/1017-2004-%D0%BF>> (2004, серпень, 10).