

FOREIGN EXPERIENCE OF FINANCIAL-LEGAL AND ADMINISTRATIVE-LEGAL REGULATION OF THE ACTIVITIES OF PUBLIC ADMINISTRATION BODIES

Yevhen Leheza

Professor, Doctor of Science in law, Professor at the Department of Public And Private Law, University of Customs and Finance, Ukraine.
ORCID ID: <https://orcid.org/0000-0001-9134-8499>.
e-mail: yevhenleheza@gmail.com

Yuliia Kolomoiets

PhD (Law), Dnipro State Agrarian and Economic University, Ukraine
ORCID: <https://orcid.org/0000-0002-5379-5228>
e-mail: julia.kolomoiets2022@gmail.com

Vadim Chalyk

Lecturer Department of Legal Disciplines,
Dnipropetrovsk State University of Internal Affairs, Ukraine
ORCID: <https://orcid.org/0000-0002-4728-0930>
e-mail: Vadimchalyk5@gmail.com

Yuliia Kovalchuk

PhD in Law, Associate professor of the Department of Administrative and Legal disciplines of Faculty No. 2,
Donetsk State University of Internal Affairs, Ukraine.
ORCID: <https://orcid.org/0000-0002-7817-4436>
e-mail: guliia.kovalchuk@gmail.com

Artem Sakhno

PhD in Law, Senior research fellow, Associate professor of the Department of administrative and Legal disciplines of Faculty No. 2, Donetsk State University of Internal Affairs, Ukraine
ORCID: <https://orcid.org/0000-0002-1260-1212>
e-mail: artsahno@ukr.net

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ABSTRACT

The purpose of the research is to consider financial and legal, administrative regulation and foreign experience of performing control over activities of public administration bodies. Main content. Defined are the main evaluation measures for ensuring effectiveness of control measures are defined; this evaluation is carried out according to the following stages: determination of quantitative and qualitative parameters for evaluating effectiveness of control; assessment of the competence of control bodies or assessment of internal and external control effectiveness, etc. Methodology: The methodological basis of the research is presented as comparative-legal and systematic analysis, formal-legal method, interpretation method, hermeneutic method as well as methods of analysis and synthesis. Conclusions. The following conclusion has been made that the following criteria are proposed for evaluating effectiveness

of controlling public administration bodies: quality and completeness, reliability of information received by the controlling bodies; timeliness of control, regularity of control, objectivity of control, lightness of control measures.

Keywords: administrative and legal principles; foreign experience; control; public administration bodies; financial and legal regulation.

EXPERIÊNCIA ESTRANGEIRA NA REGULAÇÃO JURÍDICO-FINANCEIRA E JURÍDICO-ADMINISTRATIVA DAS ATIVIDADES DOS ÓRGÃOS DA ADMINISTRAÇÃO PÚBLICA

RESUMO

O objetivo da pesquisa é considerar a regulamentação financeira e jurídica, administrativa e a experiência estrangeira de exercer o controle sobre as atividades dos órgãos da administração pública. Conteúdo principal: são definidas as principais medidas de avaliação para garantir a eficácia das medidas de controle; essa avaliação é realizada de acordo com as seguintes etapas: determinação de parâmetros quantitativos e qualitativos para avaliação da efetividade do controle; avaliação da competência dos órgãos de controle ou avaliação da eficácia dos controles internos e externos, etc. Metodologia: A base metodológica da pesquisa é apresentada como análise jurídica comparativa e sistemática, método legal formal, método de interpretação, método hermenêutico, bem como métodos de análise e síntese. Conclusões: concluiu-se que são propostos os seguintes critérios para avaliar a efetividade dos órgãos de controle da administração pública: qualidade e completude, confiabilidade das informações recebidas pelos órgãos de controle; pontualidade do controle, regularidade do controle, objetividade do controle, leveza das medidas de controle.

Palavras-chave: princípios administrativos e jurídicos; experiência estrangeira; controle; órgãos da administração pública; regulação financeira e jurídica.

1 INTRODUCTION

In Ukraine, control in its various organizational forms is carried out by the majority of state and municipal bodies and their officials. Control is one of the main components of the management process which is an element of a feedback which in its turn informs the subject of management about the results of his/her influence on the object. The results of the work of public authorities and officials largely depend on the proper organization and effectiveness of control.

Control over public authorities in general and of local self-government bodies in particular is a type of social control designed to ensure preservation and development of the social system and coordinated functioning of its elements. Social control is a complex of

measures aimed at the formation of social balance as the basis of the modern social system and its management (Buha *et al.*, 2022).

Under modern conditions of statehood development and functioning, the issue of modernization of public administration, activation of the role played by public administration bodies receives special attention. This determines expediency of increasing effectiveness of the system of control over the activities of the specified bodies, developing measures to improve the regulatory and legal field of state and public control over public administration. (Bezpalova *et al.*, 2021).

The purpose of the research is to consider financial and legal, administrative regulation and foreign experience of controlling activities of public administration bodies.

2 METHODOLOGY

This research is based on the works of foreign and Ukrainian researchers regarding methodological approaches to disclosure of financial and legal, administrative regulation and foreign experience of performing control over activities of public administration bodies, etc.

With the help of the epistemological method, financial and legal, administrative regulation and foreign experience of control over the activities of public administration bodies, etc. were disclosed; thanks to the logical-semantic method, the conceptual apparatus was deepened, financial and legal, administrative regulation as well as foreign experience of control over activities of public administration bodies etc. were defined. Thanks to the existing methods of law, we managed to analyze the disclosure of financial and legal, administrative regulation and foreign experience of performing control over activities of public administration bodies, etc.

3 LITERATURE REVIEW

In the scientific literature, control is considered in a broad sense as a set of mechanisms in the social space (individual social groupings, population organizations, etc.) which ensure its self-organization and self-preservation by establishing and maintaining a certain normative order and using appropriate patterns of behavior which can be, for example, presented as moral and cultural values of a certain society, its traditionally developed traditions, legal norms etc. In a narrow sense, it is understood as a set of means and methods of society's influence on

undesirable forms of deviant behavior with the aim of their elimination (removal) or reduction, minimization (Danylian, 2009).

Some researchers define control through a systemic approach, which makes it possible to understand control as a set of measures and processes which take place in a separate social organization and are aimed at compliance with the norms and rules of this institution, including in the conditions of restrictions on the functioning of the system. Thus, Stanislav Kosinov defines social control as a separate system of regulators of the social organization functioning, including such regulators as institutions of law, morality, traditions, etc. (Kosinov, 2013).

We believe that there is no grounds to contrast state control with social control; state control and non-state control taken together constitute social control (Halaburda *et al.*, 2021).

S. Kosinov asserts that social control is an integral part of a more general and diverse system of social regulation of people's behavior and social life; it is carried out through internal and external interaction mechanisms; it involves social interaction of personality and the respective social control; its nature, content and orientation are determined by the character, nature and type of the social system; it maintains order and stability in the society, and it also ensures social reproduction (succession) in the direction corresponding to the defined development strategy (Kosinov, 2015).

4 RESULTS AND DISCUSSION

Based on the doctrine of social management, we can conclude that control is implemented in the following areas:

- determining the limits of socially acceptable behavior of an individual;
- directing behavior of objects within the limits that create an optimal and socially acceptable behavior;
- detection of deviations from the specified limits in order to take measures of influence (Kobrusieva *et al.*, 2021).

In our opinion, it is appropriate to study the concept of “control” from the standpoint of social management. According to social management, control is a set of processes of observing and analyzing compliance of activities performed by an object of control with defined management approaches, as well as processes of detecting deviations from generally established principles of organization and regulation (Kolinko *et al.*, 2019).

Control is an important component of any management system, and this fact guarantees and ensures its high-quality and effective implementation. Control is defined as a part (element)

of management which in its turn consists in tracking the controlled object's course and state of activity; such tracking is aimed at creating a systematic review of compliance with the norms of the current legislation of the country, and this compliance with the norms is implemented through the intervention of control bodies in the activities of controlled objects and is manifested as providing recommendations, application of measures to influence management as well as coercive measures.

The English use the term “controlling” as a systematic control, tracking the progress of tasks with simultaneous making adjustments for further work. The term “monitoring” is also widely used; its meaning is practically identical to the term “controlling”, with the only difference that monitoring functions include forecasting and property protection. The term “control” is gradually absorbed by the terms “monitoring” or “controlling” (although there are other points of view according to which the last two terms are a component of control) (Bytiak, 2011).

A separate and widespread view of control, which prevails in the scientific literature, consists in consideration of control as an independent branch of government. For the first time at the beginning of the 20th century, such an opinion was expressed by the outstanding Chinese scientist Sun Yat-sen. At the same period of time, he formulated the “constitution of five branches of power”; in this constitution, in addition to the classical branches of power (“legislative” one, “executive” one and “judicial” one) he also distinguished independent powers including: “examination” one and “control” one (Bytiak, 2011).

The theory of dividing power into four branches - “legislative” one, “executive” one, “judicial” one and “control” one still has many supporters today. The majority of scientists define the essence of control as a function of authorized subjects, aimed at ensuring compliance with the law, as a form of exercising power, as a set of techniques and methods that can be used in the process of control activity. V. Harashchuk believes in the independence of control as a separate management function that helps in the implementation of all other management functions (Bytiak, 2011).

Summarizing the concepts of control activity proposed in science, experts distinguish three approaches to revealing its nature: control as an organic management function; control as a set of means of regulating behavior of an individual or that of organization as a whole; control as a limiting function of an organization of orderly activities with tasks of these activities including ensured supervision over effectiveness of organization's functioning (Kosinov, 2015).

The analysis of the available scientific approaches to interpretation of the “control” category content showed that views are characterized by unanimity of opinions in terms of establishing and identifying control methods, which are defined as a set of techniques, methods and actions that help in establishing compliance of activities performed by authorities with the norms and requirements of the current legal and regulatory framework.

It is also appropriate to note that scientists, whose works are devoted to the process of administration and management, also distinguish audit, accounting, revision, inspections, monitoring, etc. among various types of control. (Kolomoiets, 2012).

Summarizing the above, we can say that a method of control is a certain set of techniques and methods for determining compliance of organizations’ activities with current norms, rules, tasks, and instructions.

The method of control, in contrast to the function of control, does not characterize the substantive purpose of activities performed by a public authority, but only the method of ensuring proper implementation of the decisions made.

Scientists distinguish types of control based on various criteria. By subjects, control is divided into public one, parliamentary one, administrative one and judicial one. T. Nalyvaiko distinguishes two types of control in the system of state-society relations - state control and public control. One of the signs determining the type of state regime consists in analyzing the ratio of the state control and public control share and the nature of their relationship (Nalyvaiko, 2010).

According to the nature of the relationship between the subject and the object, control can be internal (departmental) one and external (non-departmental) one. Internal control is characterized by functioning of the subject and the object of control in the same plane, that is, in the same organization; with regard to external control, it is characterized through implementation of control by a separate external subject of activity.

Specialists in the field of public administration distinguish between functional control, administrative control and financial control. Functional control is related to the main activities of the organization, its policies, procedures and methods; administrative control includes procedures and documentation related to the decision-making process, and financial control is related to procedures for maintaining financial documentation.

According to its stages control is divided into preliminary one, current one and final one. Preliminary (preventive) control is a prerequisite for effective ongoing activity of an organization or institution. The main task of this type of control consists in analyzing and determining institution’s readiness to conduct its activities and perform functions assigned to

it. The key areas of verification are quality of management decisions; work with personnel; financial and material condition and use of resources.

Current control means control that is carried out during the activity of an institution or organization. This type of control is divided into operational one (based on the main current types of activities) and strategic one (it determines the next stages of development of the organization or institution, assessment of the level of efficiency) (Villasmil Espinoza *et al.*, 2022).

In addition, strategic control is distinguished; it presupposes collection and processing of information about implementation of the strategy, comparing and matching it with the parameters set in advance in strategic plans and programs, identifying deviations, analyzing the reasons that gave rise to such a deviation, evaluating them and making a decision on the corrective impact (Matviichuk *et al.*, 2022).

The next type of control is final control, which is related to providing a retrospective assessment of results of the institution's (or organization's) activities, as well as making conclusions of which can be drawn and used for further planning.

To study control, it is advisable to research its main features including such positions as tasks, goals (objectives), types, objects of control, etc. The main purpose of control is to increase the efficiency of management decisions and other tasks (Tylchuk *et al.*, 2022).

Objectives (goals) of control can be divided into strategic ones and tactical (or applied) ones. The strategic goal of control activities is to create conditions for compliance with legislative and disciplinary social norms and norms of state administration. The tactical purpose of control activities is revealed in "observing and analysing compliance of activities performed by all subjects of social relations with the parameters established by the state, as well as in certain "correction" of deviations from these parameters".

Tasks of control are divided into general ones and specific ones. Specific tasks cover only a separate side or a separate type of activity (use of resources, implementation of budget programs, reliability of data display in financial statements, etc.). General tasks of control cover all areas of activity performed by objects of control.

An object of control means an organization or a separate aspect of its activity that is subject to control. Subject of control means bodies of state power and local self-government, their officials, a group of people or an organization endowed with relevant powers. Subject of control is the state or behavior of the object of control. It can include activity of bodies or their structural divisions as a whole (general control) or individual aspects of activity, which is typical for carrying out selective control (Leheza *et al.*, 2022).

5 CONCLUSIONS

Summarizing, it is worth noting that based on the above, the concept of control can be interpreted as a set of measures of an observational nature aimed at the relevant object of control, with the aim of obtaining reliable and complete data about the state of the object; application of preventive measures; providing recommendations on restoring the normal functioning of the control object; identification of conditions and risks related with violation of legislation; prosecution measures.

From the point of view of the theory, created is a basis is for revealing the interrelationship of control with other means of ensuring legality and discipline, in particular, identifying common and distinctive features with supervision. The need for proper legal regulation of control activities, updating the regulatory framework and solving many practical shortcomings is an obvious and pressing need today. At the same time, in our opinion, these shortcomings are not a sufficient basis for distinguishing the controlling branch of law.

So, summarizing all of the above, it is worth noting that control is a social, multifaceted phenomenon, which, from mainly philosophical and rule-making standpoints is defined through a set of actions and measures carried out with the aim of monitoring actions performed by natural persons and legal entities or for establishing any phenomena, facts when studying objects of the material world.

When summarizing achievements of scientists, we can conclude that supervision is a separate form of control, and in the process of implementation of this form of control influence measures are applied after violations are detected. According to practitioners, control is characterized by activities within the current legal and regulatory framework including activities of both the organization itself and its individual bodies and officials.

Control and supervision are quite often interpreted as identical concepts, given their single purpose (ensuring legality, restoring legal relations violated by an illegal act, bringing guilty persons to legal responsibility) as well as taking into account the possibility of their implementation in the same forms (inspections, demands for reports, explanations, etc.).

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