

TARAS SHEVCHENKO NATIONAL UNIVERSITY OF KYIV
DEPARTMENT OF FINANCIAL LAW
FINANCIAL LAW CENTER
CENTER FOR UKRAINIAN
AND EUROPEAN SCIENTIFIC COOPERATION

PUBLIC FINANCE: LEGAL ASPECTS

2019 • COLLECTIVE MONOGRAPH



CENTER
for Ukrainian and European
Scientific Cooperation

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2019

*Recommended for publication
by the Academic Council of Law Faculty
of Taras Shevchenko National University of Kyiv
(minutes No 10 dated April 15, 2019)*

Under the general editorship of Prof. Nadiia Pryshva.

Public finance: legal aspects : Collective monograph. Riga : Izdevnieciba "Baltija Publishing", 2019. 260 p.

Monograph "Public finance: legal aspects" is a paper written by the team of leading Ukrainian scholars in the sphere of finance law and initiated by Financial Law Center and Department of Financial Law of Taras Shevchenko National University of Kyiv.

All monograph's authors are representatives of Ukrainian financial law school which was founded by Lidiia Voronova. In memory of our Teacher, Financial Law Center was founded to study the problems of legal regulation of public finance, and this monograph was prepared.

In the monograph, scholars presented their vision of solving the most topical problems at legal regulation of financial relationships. The concept of public financial activity is covered; the powers of bodies carrying out public financial activity in Ukraine are investigated; issues of the activities of local self-government bodies under the conditions of financial decentralization are considered; the concepts and features of public funds are determined; the content of public interest in tax law is presented, and the essence of the subject-matter of financial law is studied, etc.

The monograph will be useful to scholars, students and anyone who is interested in financial law issues.

ISBN 978-9934-571-82-4

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PROCEDURAL NORMS IN THE FINANCIALLY-LEGAL REGULATION

Liubov Kasianenko, Tamara Latkovska

INTRODUCTION

Widely used notion of procedural norms cannot be considered to have been finally formed, as it has invested quite different content, calling these norms processual, procedural, procedurally-processual, organizationally-processual etc. It should be mentioned that scholars underestimate procedural norms despite the social significance of them, although they play an important role in providing optimal conditions of legal regulation, bearing the main burden of the normative way of strengthening the rule of law, ensuring the rights and freedoms of citizens.

Significant attention was paid to the study of legal norms in the works of M. Aleksandrova, S. Alekseeva, M. Baitina, V. Baranova, P. Nedbaila, I. Seniakina, A. Shebanova and others. As one of the fundamental problems of the processual law, the processual rules were studied by V. Gorshenyov, I. Diuriagin, N. Zemchenko, L. Koval, K. Komisarov, A. Melnykov, A. Pigolkin, N. Chechyna, R. Shagieva and others. Some aspects of the implementation of procedural norms of financial law were investigated by A. Ivans'kyi, E. Dmytrenko, M. Kucheriavenko, I. Krynyts'kyi, E. Kuznechenkova, O. Paul, N. Pryshva and others.

It should be noted that the problem of legal norms has been studied by scientists for a long time. The notion "norm" has begun to be used in the ancient period. At each stage of its development it acquired different meanings. The term "norm" (from the Latin "norma" – "rule", "exemplar", "a guiding beginning", "sample", "measure", in turn, this term also originates from the Greek and means "high scale", "rule") has begun to be used in the construction as "the justice of the triangle" for the first time. Such an interpretation of the notion of "norma" also spread to the sphere of spiritual and practical activity of a person, in particular, moral and ethical relations. Cicero took the term of "norma" along with the concept of "regula" in the philosophy of law, defining the notion of "law" by means of a metaphor borrowed from the constructional sphere, that is, as "the scale of law or lawlessness"¹. And Ulpian derived a

¹ Єрмоленко А.М. Норма : філософський енциклопедичний словник. Київ : Абрис, 2002. С. 433.

legal formula on the rules of law: the rights are not set for individuals, but in general terms. One can conclude that the norm of law is a unique example of relations, the observance of which in practice leads to the construction of relationships necessary for life, after analyzing the heritage of outstanding ancient Roman lawyers.

In the *Ruska Pravda*, first of all in the *Prostorova Pravda*, the norms of procedural law were determined, as well as those that have been formed by legislators and have been known to practice during several previous centuries. Thus, some of the procedural norms of the *Ruska Pravda* has become the result of the transformation of customs that were used in the early period of Kyivan Rus. For a long time, lawyers have been forming the concept of “norm of law” and have identified a number of its features. At the same time, new features and properties have been acquired by modern concept in legal practice, although today’s scholars have different views on this issue. The later development of the procedural norms of financial law and, as a consequence, the pursuit of scientific developments in this sphere should not reduce the autonomy and the meaning of the procedural norms of financial law.

1. The features of financially-procedural norms

To understand the provisions of any procedural norms, their distinction from the material norms, first of all it is necessary to become aware of the history of their origin, to find out those social needs that have caused them to live. In the opinion of A. Kim, V. Osnovin², the participants of the state-legal relations are authorized with the rights and freedoms by the material norms, the procedure of legal norms’ enforcement in organizational activities is determined by the procedural norms. More than that, the state of legitimacy mostly depends on procedural forms of their enforcement – timeliness of prescription, completeness and perfection of procedural norms.

The procedural norms of various branches of law have: organizationally-procedural character (to emphasize the sphere of their influence only by management or law enforcement activity is not possible, as their influence is wider, different-sided); a specific subject of legal regulation; dependence on material norms.

It should be noted that: the process of formation, distribution (redistribution), use of financial resources of the state and bodies of local self-government, the

² Ким А.И., Основин В.С. Государственно-правовые процессуальные нормы и их особенности. *Правоведение*. 1967. № 4. С. 42–44.

circulation of securities and foreign currency in the territory of Ukraine; state and local revenues and expenses, and also financial providing of state and local enterprises, institutions and organizations; public and local debt and also activity of National bank and others financial institutions; state social insurance, obligatory insurance; financial control and others are regulated by the norms of financial law. Norms of the financial law, as well as any other branch of law, are obligatory rules of subjects' conduct of the public relations, are established by the state and provided with its compulsory force. Common features of legal norm are inherent to them, namely: they are the rule of subjects' conduct, the authoritative instruction of the state and have regulatory, formally determined and obligatory character. At the same time, they are inherent of the particular qualities of this particular activity, which are determined by the specific subject of legal regulation: their content is the participants' conduct of a special kind of social relations in the process of financial activity of the state and local self-government bodies. These rules are expressed in granting the subjects of such relations the subjective legal rights and obligations, which implementation provides systematic mobilization, distribution and use of centralized and decentralized funds of financial resources respectively to the needs and the interests of the state and society. But the fact that they are established or authorized by the state is invariable, are obligatory for all participants of the regulated public relations, if necessary are provided with the compulsory force of the state.

The subject of regulation of procedural norms are the relations that were created in the process of organizationally-legal forms of activities for application material norms on regulation of the relations in the sphere of financial activity of the state. Financial scholars note that the prescriptions contained in the norm and are officially enforced must be carried out by each subject, if it is in the conditions stipulated by the rule. Each legal norm is formulated by the state, clearly contains certain legal rules and obligations. If the rule, which is contained in the norm, is not carried out voluntarily, the state forces to abide it by the measures that are provided by the sanctions. N.Y. Pryshva³ notes that the financially-legal norms combine both material and procedural. In modern conditions procedural norms of other branches of law cannot satisfy fully "the needs" of the financial law

³ Пришва Н.Ю. Правові проблеми регулювання обов'язкових платежів : автореф. дис. ... докт. юрид. наук : 12.00.07 ; Київський нац. ун-т ім. Тараса Шевченка. Київ, 2004. С. 27.

in regulation of procedural relations that arise in the sphere of accumulation of assets to state and local funds.

Considerable attention to the formation of procedural norms is given in the Budget Code of Ukraine. The state needs financial resources to execute the functions and tasks, as such resources are always limited, it is necessary to distribute them. All this can be made through the budget which needs to be made, discussed, approved and executed. These norms are also procedural. It is impossible to apply material-legal norms without observance of the procedural order established by the legislation. The efficiency of the budgetary process at the nation and local levels depends on observance of the procedural norms by all participants of the budgetary process. Annual passing of the legislative procedure of the state budget's adoption is one of the most difficult tasks among those which public authorities should solve.

Most of scientists, investigating the budgetary process draw to a conclusion, that in the financial law norms that have procedural character belong to procedural: a) define the list of participants of this or that activity; b) fix types of necessary actions and their obligatory sequence; c) predict an organizational form of each action; d) establish the rights and obligations of participants of the activity; e) define a decision-making order. In the fiscal law norms are procedural: about an order of carrying out a tax accounting of taxpayers, providing the tax declaration by them, the procedure of tax calculation, a control procedure for payment of taxes, application of enforcement measures etc. M.P. Kucheriavenko⁴ refers such features to the tax-legal norms: tax-legal norm is a conduct form in the form of the state authoritative instruction; it is protected and provided with the force of the state enforcement; it is the obligatory rule of conduct; differs in concreteness, subject specification, individual orientation, categoriality in a regulation of participants' conduct of the tax relations at implementation of a tax liability; tax-legal norms not only fix a circle of participants of the tax relations, but also provide them with appropriate subjective rights, and impose on them with subjective legal obligations; they are characterized by systemacity. We consider that the specifics of tax legal relations caused the necessity to interpret tax process in a broad sense. In our opinion, tax process has to cover all relations regulating the established order of realization of a tax debt by the taxpayer, an order of calculation, payment,

⁴ Кучерявенко Н.П. Налоговый процесс : учебное пособие. Киев : Алерта, 2010. С. 27–28.

tax reports, tax control and collecting payments and also settlement of the tax conflicts and disputes. The specifics of tax legal relations allow to speak about tax process in the broadest sense, which include all procedural relations connected with ensuring the right of the state to a part of property of the taxpayer in the form of a tax payment in the corresponding budget, and in narrow, – understanding only those procedural legal relationships connected with tax offense proceedings.

L.K. Voronova⁵ considered that procedural financially-legal norms “define a procedure of activity of bodies of the state for mobilization of funds in the centralized and decentralized funds and an order of realization of obligations for introduction of funds and their expenditure from other party of financial legal relationship – legal entities and individuals”.

Financially-procedural norms are legal norms to which all qualities of legal norm are peculiar, and at the same time they have also special qualities, which are characteristic only for financially-procedural norms. There a lot of financially-procedural norms needs more accurate legislative regulation in Ukraine. They are rules of collecting taxes and other payments, their administration, accumulation and use of budgetary funds, creation and distribution of credit resources and insurance funds, functioning of the financial market etc. The high level of development and accurate observance of procedural financially-legal norms will promote the efficiency of use of public finance, will serve as an important guarantee of legality, it is a necessary condition of formation of the legal state.

The analysis of the financial legislation confirms close interrelation of financial material and procedural norms though it is impossible to tell that they are equivalent behind the structure and contents. The content of financially-legal norms is establishment of rules of the participants' conduct of the public relations of a special type – the financial and economic relations that is always connected with distribution or redistribution of certain financial resources by the state in its interests. Norms which provide implementation of financial operations, accounting of budget revenues and expenditures, an order of execution of documentation on monetary operations, enactment of the operative-statistical and accounting reports in financial institutions, monetary documents management etc. are belong to procedural financially-legal standards of the general character. Not all

⁵ Воронова Л.К., Кучерявенко Н.П. Финансовое право : учебное пособие для студентов юрид. вузов и фак-тов. Харьков : Легас, 2003. С. 69–70.

technical and legal norms which mediate financial activity of the state, and only those of them which directly related with formation, change and the termination of financially-legal relationships belong to particular (special) financially-procedural norms.

The ratio question between procedural and material norms of the financial law can be determined by the relation of a content and a form. The essence of financially-procedural norms consists of that they always regulate an order, forms, a method of implementation of norms of the financial material law. The state has to provide them adequate forms beforehand: to establish payments, an order and terms of their return in the relevant public funds, to define forms and the directions of use of the mobilized financial resources, etc. The content of financially-legal norms is establishment of rules of the participants' conduct of the public relations of a special type – the financial relations that is always connected with distribution or redistribution of certain financial resources by the state in its interests. Material financially-legal norms enshrine types and the amount of funds which has to return to the centralized and decentralized funds from legal entities and individuals, volumes of expenses etc., and procedural financially-legal norms establish an order of realization of material financially-legal norms.

In our opinion, the specifics of financially-legal norms are as follows: they differ from material norms in the purpose. Procedural norms regulate an order, the procedure of realization of these rights and obligations and answer a question how to do it; procedural norms are derivative in relation to material. It means that they arise and exist only if needed to realize the material norms; financially-procedural norms are means of realization not of all material norms. The need for financially-procedural norms arises only when the special procedure is necessary for the solution of a concrete question; it is impossible to construct a self-contained construction in which only two norms would interact: on the one hand – material, on the other hand – procedural, that is a construction in which the procedural norm would be defined only for one material norm and would provide its realization in full volume. As a rule, a single procedural norm serves several material norms, but never provides their realization up to the end. In turn, a single material norm needs to interact with the whole group of the procedural norms for full realization. Therefore, the minority of procedural norms concerning material norms does not mean that the material norm

generates procedural; financially-procedural norms provide realization of material norms of the financial law.

It is necessary to develop their classification for formation of a complete picture of any phenomena. It is possible to consider a research object from different positions, to make the correct idea of its formation, existence and development by means of classification. Classification (Latin of *classic* – the category and *facere* – to do) – the special case of application of logical operation of distribution of concept's scope, represents itself a certain set of divisions (classes, types etc.). As A.E. Leist⁶ noted, classification is a way of identification of essential qualities of the system's divisions on which others, derivative of them attributes of each of elements of division depend on.

The major task is to reflect essential properties of norms as the regulator of the public relations and to reveal their specific features and peculiarities of distribution on the basis of them. Some scientists divide norms of non-material character into organizational, procedural, informative, procedurally-processual etc. In our opinion, at the same time there is no general legal criterion of division into groups and simple transfer of such groups of non-material character does not bear any legal loading.

Any classification, if it is methodically correctly executed, only helps to study a problem profoundly. In our opinion, the only criteria on classification of procedural norms are absent now. We consider that it is necessary to carry out the classification of financially-legal norms and to define its criteria, as the research of this question is one of the directions of the development of financially-legal science connected with further drawing-up, improvement and codification of procedural norms of the financial law. Nowadays the important factor of ensuring legality, quality and efficiency of the state's financial activity will allow as much as possible to provide the guarantees of the implementation of the subjective procedural rights by the subjects of financially-legal process, to overcome gaps in use of procedural norms of the financial law, collisions and differences in the legal regulation of the public relations.

In our opinion, financially-procedural norms can be classified on:

1) types of legal activity of public authorities in the sphere of formation, distribution and use of the centralized and decentralized funds (law-making, law-enforcement, constituent, control);

⁶ Лукьянова Е.Г. Теория процессуального права. Москва : Норма, 2003. С. 61.

2) types of financially-procedural proceedings. It is possible to single out types of financially-procedural norms that regulate proceedings, for example, for distribution of public financial resources; for accounting of financial resources; on implementation of control concerning formation, distribution and use of the public centralized and decentralized funds; financial examination; pretrial resolving of the financial conflicts; adjudication of financial disputes etc.;

3) legal force. By the legal force financially-procedural norms can be divided on norms which are in laws and subordinate acts. According to the Constitution of Ukraine: State budget of Ukraine and budgetary system of Ukraine; the system of taxation – taxes and fees; bases of creation and functioning of the financial, monetary, credit and investment markets; the status of national currency, and also the status of foreign currencies on the territory of Ukraine; an order of formation and repayment of the state internal and external debt; an order of issue and circulation of the government securities, their kinds and types are only established by laws of Ukraine. Any expenses of the state on the general social needs, the size and the target direction of these expenses are only defined by the law “On the State budget of Ukraine”;

4) a circle of subjects of law, which extends the action of financially-procedural norms, it is appropriate to divide them into norms that establish: a) an order of activity of legislative body of the state, local councils and bodies of local self-government on enforcement of material legal norms of the financial law; b) an order of activity of executive bodies on enforcement of material legal norms of the financial law; c) an order of activities of managers of money on enforcement of material legal norms of the financial law; d) an order of participation in financially-legal process of other participants-legal entities; e) an order of participation of citizens of Ukraine in financially-legal process;

5) regulation volume. Norms that carry out legal regulation of financially-legal process in general are related to the general financially-procedural norms. Special financially-procedural norms are norms which regulate the general questions that are in separate types of proceedings of financially-legal process. It is necessary to refer norms to them that establish stages of separate types of financially-procedural proceedings;

6) a role of financially-procedural norms in regulation of the public relations. According to this criterion they need to be divided into regulatory

and security. It is necessary to refer to regulatory financially-procedural norms that establish the procedural rights and obligations of participants of financially-procedural legal relationship. Security financially-procedural norms are enforced in a case of illegal behavior and provide a measure of the state coercion;

7) action in space. It is necessary to distinguish financially-procedural norms that work within all the territory of Ukraine, and within a certain administrative-territorial unit;

8) action in time. Financially-procedural norms are divided into perpetual that act within the uncertain period, and urgent – with limited duration. For example, certain urgent norms are defined in the Budgetary code of Ukraine.

Of course, classification of financially-procedural norms does not exhaust all possible differentiations of procedural norms in general and does not apply for “ultimate truth”. It can be carried out also on other criteria.

2. Financially-procedural norms in the mechanism of legal regulation

The mechanism of financially-procedural regulation is a dynamic system of legal means by means of which financial activity of authorized bodies and officials in process of mobilization, distribution and use of financial resources of the state and bodies of local self-government is ordered, and also during control of the movement of these funds. It is reached thanks to fixing the legal personality of participants of financially-legal process by the procedural-legal norms; separation of the legal facts that define the dynamics of financially-procedural legal relationship; separation of the special means, forms and ways of implementation of financial procedural activity; separation of competences of subjects of powers of authority which take participation in financially-legal process etc.

It should be noted that the importance of procedural norms in the mechanism of legal regulation consists in regulation of subjects' activity. In this case rules of subjects' conduct of financial legal relationship are defined by the procedural financially-legal norms. It is possible to reach an economic order in the public relations, to correct people's conduct according to requirements of economy, the authorities, all social life, having imperative character by means of certain rules. Norms can form the relations in which their participants enter. Procedural financially-legal norms play an important role in providing optimal conditions of legal regulation, bearing the main burden of a standard way of strengthening of legality.

The purposes and problems of a modern stage of development of Ukraine need active regulatory actions from the state, that is improvement of the directions, forms, methods and mechanisms of economic activity which important component is financial activity of the state and local governments. It is true that the relations between subjects concerning financial activity, which arise during the movement of public financial resources are subject of profound legal regulation. Firstly, it is about features of public-legal regulation, where a realization of public interests goes to the forefront. Secondly, in this case a realization of the state interests is connected with bases, vitally important for existence of the state, – formation of the financial bases of ensuring the state functions.

As A.P. Orliuk⁷ notes, that the financially-legal norms fix the exhaustive list of participants of financially-legal relationship, to authorize them with subjective legal rights and assign to them subjective legal obligations which need to be observed. Their internal definiteness is expressed in the content, scope of the subjective rights and legal obligations of participants of financially-legal relationship which performance provides public financial activity, and also accurate definition of consequences of its violation; their external definiteness is that they have external textually-legal form of expression and at the same time is enshrined in normative legal acts. They are characterized by systemacity, that is shown in their structural construction. The main feature of financially-legal norms is that they have state-authoritative, imperative character. It should also be added that the financially-legal norms consist of written requirements, expressed in a categorical form, which does not allow to change them voluntarily, they must precisely and exhaustingly determine the scope of rights and obligations of financially-legal relations.

The analysis of specifics of legal regulation of the financial relations allows to draw a conclusion that they are always regulated with use of normative acts of the highest level of the public power. Formation and use of the state and local budgets promote formation of a large number of procedural financial legal relationship which legislators need to settle. Therefore, special attention is not accidentally paid to financial legal relationship in constitutions of many states, and in some countries (Belgium, Spain, Germany, Switzerland, Sweden etc.) the financial perspective is

⁷ Орлюк О.П. Фінансове право. Академічний курс : підручник. Київ : Юрінком Інтер, 2010. С. 126.

allocated even in the independent section in the basic law. Ukraine needs also to borrow experience of our neighbors. The mechanism of legal regulation is shown in legal norms, in legal relationship, in acts of realization of the rights and obligations. Respectively, the main means of financially-legal regulations are norms of the financial law, financial legal relationship and financially-legal acts in which, to a regret, there is no clearness of statement of financial procedural norms. Actually, the mechanism of indisputable write-off of the budget funds and reimbursement of damages caused to the budget is put in Article 25 of the Budgetary code of Ukraine. So, this legal norm provided that managers of budgetary funds have to order the obligations, taking into account unconditional write-off of funds, and bring them into compliance with the budgetary purposes for the corresponding budget period within a month since time of carrying out of such operation, in case of write-off of funds with registration accounts of the budgetary institutions because of which there were corresponding obligations. Therefore, Article 25 of the Budgetary code of Ukraine concerns write-off of funds from accounts on which funds of the State budget of Ukraine and local budgets are considered. The treasury of Ukraine carries out indisputable write-off of funds on the basis of the judgment.

It should be noted that in the active legislation there is a duplication of procedural norms concerning responsibility for violation of the financial legislation. It is worth paying attention that the main rules, procedures, requirements and the recommendations about the organization and carrying out of efficiency use audit of public funds are defined by different normative-legal acts.

Action or inaction make the objective element of violation of the budgetary legislation, there are those its signs which characterize the participants' conduct of budgetary process. There are no instructions on the subjective element of violation of the budgetary legislation in Article 116 of the Budgetary code of Ukraine⁸, first of all whether the existence of fault of the offender is obligatory, what its form (intent) or negligence. This article contains the general definition of law violation. However, the analysis of the following articles' contents of the Code, and also standards of other legislative acts allows to define types of concrete law violations: violations of the budgetary legislation, responsibility for which is

⁸ Бюджетний кодекс України : Закон України від 8 липня 2010 р. № 2453-VI / Верховна Рада України. *Офіційний вісник України*. 2010. № 59. Ст. 2047.

provided by the Code of Ukraine of administrative violations (Article 164¹²), violations, responsibility for which is provided by the Criminal code of Ukraine⁹ (Articles 210, 211). Inappropriate use of the budgetary funds forms structure of the administrative offense provided by Article 164¹² of the Code of Ukraine of administrative violations¹⁰, and inappropriate use of the budgetary funds in a large volume (the sum that in one thousand and more time exceeds a free minimum of income of citizens) or especially big (the sum that in three thousand and more time exceeds a free minimum of income of citizens) sizes, – forms offence, provided by Article 210 of the Criminal code of Ukraine.

In a complex ensuring legality and financial discipline in the sphere of public finance is reached by means of a form of realization of security function of the financial law – legal responsibility, and means: implementation of financial control, financially-legal coercion and violation of the financial legislation proceedings. Characteristic features of security function of the financial law are described more accurately if to compare them to law-enforcement and control activity of the state. Their general purpose in the sphere of public finance comes down to ensuring steady execution of requirements of the law by participants of the financial relations, that is observance of the regime of financial discipline. It is reached by identification of financial offenses in process of implementation of financial control, their investigation, calling to account of guilty persons according to observance of certain procedures. It is possible to reach the purpose of legal regulation only when there is an established and provided order of implementation of substantive instructions.

So, it is possible to define the mechanism of financially-procedural regulation as the dynamic system of legal means, by means of which financial activity of the state and bodies of local self-government in process of formation, distribution and use of financial resources of the state and bodies of local self-government is ordered, and also during control of the movement of these funds. It is reached thanks to fixing the legal personality of participants of financially-legal process by the procedural-legal norms; separation of the legal facts that define the dynamics of financially-

⁹ Кримінальний кодекс України : Закон України від 5 квітня 2001 р. № 2341-III / Верховна Рада України. *Відомості Верховної Ради України*. 2001. № 25–26. Ст. 131.

¹⁰ Кодекс України про адміністративні правопорушення : Закон Української РСР від 7 грудня 1984 р. № 8073-X (зі змінами й доповненнями) / Верховна Рада України. *Відомості Верховної Ради Української РСР*. 1984. Додаток до № 51. Ст. 1122.

procedural legal relationship; separation of the special means, forms and ways of implementation of financial procedural activity; separation of competences of subjects of powers of authority which take participation in financially-legal process etc.

CONCLUSIONS

The analysis of specifics of legal regulation of the financial relations allows to draw a conclusion that they are always regulated with use of normative acts of the highest level of the public power. Formation and use of the state and local budgets promote formation of a large number of procedural financial legal relationship which legislators need to settle.

Special features of procedural norms are: financially-procedural norms provide realization of material norms of the financial law; they have a specific subject of legal regulation for formation, distribution and use of public financial resources of state and bodies of local self-government and implementation of control concerning this activity; they are conduct forms in the form of the state authoritative instruction for formation, distribution and use of public financial resources of state and bodies of local self-government; they are protected and provided with the force of the state enforcement and implementation of control concerning this activity; differ in concreteness, subject specification, individual orientation, categoriality in a regulation of participants' conduct of the relations; fix a circle of participants of the relations, but also provide them with appropriate subjective rights, and impose on them with subjective legal obligations; they are protected and provided with the force of the state enforcement, according to this the ratio question between procedural and material norms of the financial law can be determined.

The ratio question between procedural and material norms of the financial law can be determined by the specifics of financially-legal norms: they differ from material norms in the purpose. The essence of financially-procedural norms consists of that they always regulate an order, forms, a method of implementation of norms of the financial material law; procedural norms are derivative in relation to material; financially-procedural norms are means of realization not of all material norms. The need for financially-procedural norms arises only when the special procedure is necessary for the solution of a concrete question; it is impossible to construct a self-contained construction in which only two norms would interact: on the one hand – material, on the other hand – procedural, that is a construction in which the

procedural norm would be defined only for one material norm and would provide its realization in full volume. A single procedural norm serves several material norms, but never provides their realization up to the end. Financially-procedural norms provide realization of material norms of the financial law.

The high level of development and accurate observance of procedural financially-legal norms will promote the efficiency of use of public finance, will serve as an important guarantee of legality.

SUMMARY

It should be mentioned that scholars underestimate procedural norms despite the social significance of them, although they play an important role in providing optimal conditions of legal regulation, bearing the main burden of the normative way of strengthening the rule of law, ensuring the rights and freedoms of citizens. The essence of the financially-legal norms in a legal regulation is as follows: creation of favorable conditions and guarantees in the sphere of financial activity of the state; establishment of the corresponding procedural forms in activities for formation, distribution and use of financial resources of the state and bodies of local self-government and implementation of control. According to authors, the basic structural elements of the mechanism of legal regulation it is expedient to consider: financially-procedural norms; definition of the appropriate purpose in laws and other normative acts; support of positive participants' conduct of the public relations; financially-legal personality of participants of financially-legal process; financially-procedural legal relationship, for which legality and legal order in the sphere of public finance as a condition and result of financially-legal regulation etc.

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