



## Prospects for the functioning of a single law enforcement authority that ensures financial security of Ukraine

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Overcoming the current economic crisis is closely linked to the priorities of state policy aimed at ensuring the financial security of Ukraine, as crimes in the field of financial and economic activities have become a real threat to the national security of Ukraine. According to V.I. Melnyk, it is possible to counteract such a process only by systematically counteracting economic crime and consolidated work of law enforcement agencies, which are the subjects of financial and economic security [1].

Studying the current problems of the law enforcement system, which ensure the financial security of Ukraine, V.S. Chuban and K. M. Pasynchuk point to the inefficiency of their work, which is associated with the functioning of an extremely low level of interaction and coordination between law enforcement and regulatory authorities; the presence of competition between law enforcement agencies; lack of a single information system for the functioning of law enforcement agencies; use of problem methods of analysis, collection and processing of information; availability of outdated methods of work in the field of combating criminal offenses; the presence of a high level of external influence on the work of law enforcement agencies that ensure the financial security of the state; lack of coordinated work in the direction of consolidation and unification of foreign experience of law enforcement agencies in this area [2, P.154].

Given the significant diversification of law enforcement agencies and their powers, the key problems that arise in connection with the ineffective implementation of powers are: outdated methods of counteracting criminal threats in the field of public finances used in the work of law enforcement agencies, as well as imperfect methods of collecting, processing and analysing information; low level of functional interaction between controlling and law enforcement bodies, lack of a unified information system of state bodies, competition between law enforcement bodies and high level of external influence on such bodies; lack of unified with foreign law enforcement institutions methods of detection and investigation of economic crimes, committed using the capabilities of transnational criminal financial schemes [3].

This article analyses the administrative and legal basis for the creation of a single law enforcement agency that ensures the financial security of Ukraine, explores key issues in this area and ways to solve urgent problems.

**Keywords:** *a single law enforcement body that ensures the financial security of the state, the financial security of the state, the subjects of ensuring the financial security of the state.*

### Introduction

The domestic scientific and legal field is characterized not only by outlining the urgent need to reform the law enforcement system and the system of financial security, but also by taking concrete action. It is determined that for the functioning of an effective system and effective reform in the field of financial security of Ukraine and combating criminal threats, it is necessary to:

1) create a single law enforcement body, the task of which should be to eliminate and identify systemic threats in the field of public finances, to prevent their occurrence in the future;

2) create a single analytical centre for concentration and analysis of information on the state of the financial system of the country, which is collected by state bodies of Ukraine and self-government bodies;

3) introduce a new model of organization of law enforcement, guided by analytics, the so-called ILP model (Intelligence Led Policing), used by similar law enforcement agencies of the European Union countries and the OSCE;

4) create a basis for the transition of state regulatory authorities from supervisory and punitive to preventive and service model of work [3].

The creation of a single law enforcement agency in the field of financial security is extremely important, because, as O.M. Rieznik notes, the basic principles of the economy in the country and the principle of movement of financial resources have changed, which creates the need to consolidate resources of the entire law enforcement system, which provide financial and economic security.

**Setting objectives:** The purpose of the article is to carry out a legal analysis of the administrative and legal basis for the creation of a single law enforcement agency that ensures the financial security of Ukraine.

**Results of the research:** V.S. Chuban and K.M.Pasynchuk emphasize that the task of the new law enforcement agency should be to identify and eliminate systemic threats in the field of public finance and prevent their occurrence in the future. Such a body should act as a single analytical centre for analysis and concentration of information on the general state of functioning of the financial system of the state. In addition, scientists point out that the key task in the work of the body should be to build a basis for the transition of state regulatory authorities from the supervisory-punitive model of work and performance of powers, to preventive and service [2].

O. P. Riabchenko, V. Y. Matsiuk, H. V. Solomenko predict that the new law enforcement body, whose activities will be aimed at ensuring Ukraine's financial security, will be of the European standard and will act as a guarantor of such security, counteract financial crimes, return shadow financial resources to legal channels, and de-shadow the economy. The basic tasks should be: prevention of fraud in the field of public finances, the formation of legal awareness and legal culture of citizens on the voluntary payment of taxes and fees, namely taxation should become a custom, rather than to be carried out under the influence of severe coercion [4, P. 2].

I. B. Bezzub compares the functioning of the future body with "an intellectual centre, whose work will be based on the use of modern risk-oriented methods of criminal analysis" [5]. In addition, the work of this body should be based on the OLAF methodology – the latest law enforcement methodology, which is guided by analytics, which involves collecting information from clearly identified sources, its accumulation in the risk management system and further analysis to fully identify risks and threats to Ukraine's financial security [2, P. 154].

The current system of law enforcement agencies that ensure the financial security of the state operate with a significant number of problematic issues and shortcomings. According to the Unified Report of the Office of the Prosecutor General of Ukraine, only 104 criminal offenses were registered by the National Police in Ukraine last year, actions under which are qualified under articles of section 7

of the Criminal code of Ukraine "Crimes in the sphere of economic activity".

We consider it possible to point out the unsatisfactory nature of the work of the National Police of Ukraine on the investigation of economic crimes. The National Police is one of the key law enforcement agencies in this area. According to the statistics of 2017, all law enforcement agencies, which are the subjects of financial security, investigated 8740 criminal proceedings, which were filed with the Unified State Register for crimes of this category [1]. In 2019, the National Police registered only 104 criminal offenses throughout Ukraine. In our opinion, this nature of the work of this law enforcement body is influenced by systemic reform. After all, in accordance with the Resolution of the Cabinet of Ministers of Ukraine "On the establishment of a territorial body of the National Police" dated October 13, 2015 № 830, the Department of Economic Protection of the National Police of Ukraine functioned as an interregional territorial body within the criminal police of the National Police of Ukraine, which carried out operational and investigative activities in accordance with its powers.

The Order of the National Police of Ukraine "On approval of the Regulations on the Department of Economic Protection" № 81-07.11.2015 defined the tasks of the Department of Economic Protection of the National Police of Ukraine: participation in the formation and implementation of state policy in the field of crime control, protection of the economy and property rights; detection, prevention and cessation of crimes in the economic sphere, including those committed by socially dangerous organized groups and criminal organizations that affect the socio-economic and criminogenic situation in the state and in its regions; fight against corruption and bribery in areas of strategic importance for the state economy, and among officials of public authorities and self-government; counteraction to corruption offenses and corruption-related offenses; establishing the causes and conditions that contribute to the commission of offenses in the economic sphere, and taking measures to eliminate them [7].

In fact, operational and investigative actions on the lion's share of economic crimes were carried out by this Department. At the same time, the then-Prime Minister of Ukraine Oleksiy Honcharuk determined that the National Police should not interfere in business activities, and pointing to the key shortcomings of the Department, the latter was liquidated as a legal entity under public law on the basis of the resolution of the Cabinet of Ministers "On liquidation of the National Police as the territorial body" dated 02.09.2019 № 841 [8]. The functions performed by this body were redistributed to other structural units of the National Police of Ukraine.

In accordance with the reports of the Security Service of Ukraine, this law enforcement agency in 2019 conducted 32 inspections of enterprises for compliance with the legislation in the field of financial and economic activities; the corruption abuses exposed in the amount of UAH 110 million; employees of the Security Service of Ukraine warned of illegal misappropriation of funds during the execution of the state defense order in the amount of UAH 750 million; there are 2 convictions of the court, which entered into force for the conviction of persons under Art. 201 of the Criminal Code of Ukraine – smuggling [9].

For 2019-2020 the work of the Security Service of Ukraine is characterized by the question of reform. Thus, the President of Ukraine and the Prime Minister of Ukraine have repeatedly raised the issue of liquidation of the Department of Counterintelligence Protection of the Economy and the Office for Combating Corruption and Organized Crime. It was planned to transfer all powers of the Department and the Office to the newly created body, whose activities will be aimed at ensuring financial security in the country and the investigation of crimes in this area.

According to the director of the National Anti-Corruption Bureau of Ukraine, 2019 was a year of intensification of the fight against corruption. Thus, as of December 31, 2019, the proceedings in the work of the National Anti-Corruption Bureau of Ukraine there are 892, 32 convictions, which entered into force and 273.24 million UAH in damages [10].

Instead, last year was a failure for the State Bureau of Investigation and this law enforcement agency failed to meet the tasks set by the Strategic Program of the State Bureau of Investigation for 2017-2022. In 2019, the Central Office of the State Bureau of Investigation registered 9,486 reports and reports of crimes. At the same time, as of 31.12.2019, there are 37,128 proceedings in the State Bureau of Investigation.

One of the most pressing issues today is the functioning of the tax police, which is a special unit of the State Fiscal Service of Ukraine, a pre-trial investigation body that deals with tax offenses and violations in the budget sphere. Researchers emphasize that since the founding of this body, the latter has shown itself quite positively. For example, in 2012 only, due to the coordinated and effective work of the tax police, 3.5 billion UAH was returned to the State Budget of Ukraine, 760 million UAH was seized from illicit trafficking, the shadow alcohol market was reduced to 6% from 20% and alcoholic beverages worth 110.2 million UAH were seized [12]. However, abuse of power, outdated and incorrect methods of work have put the tax police at the center of reforming Ukraine's financial security system.

Last year, 1,287 criminal proceedings for tax evasion were registered. At the same time, at the stage of pre-trial investigation, 262 criminal proceedings were closed, 259 proceedings of which were closed on the grounds that there was no corpus delicti. In 2019 18 sentences were registered in the Unified State Register of Court Decisions, among them – 10 convictions (3 of which were adopted on the basis of a plea agreement) and 8 acquittals [13].

In our opinion, the above mentioned statistics indicate inefficient work of the tax police. Thus, on October 10, 2019 the Verkhovna Rada of Ukraine approved the program of the Cabinet of Ministers of Ukraine by Resolution №188-IX. One of the items of this program in the financial direction is the creation of a body that will investigate crimes in the field of public finance [13]. Therefore, in accordance with the Transitional Provisions of the Tax Code of Ukraine, the section "Tax Police" will be excluded from the code, and the tax police itself will be eliminated from the moment of adoption of the relevant law on the establishment of a new body.

We also note that a number of powers of the tax police of the State Fiscal Service of Ukraine, the Security Service of Ukraine and the National Police are duplicated (Table 1).

**Table 1.** Analysis of the current legislation of Ukraine on duplication of powers of the tax police of the State Fiscal Service of Ukraine, the Security Service of Ukraine and the National Police.

№	Powers of the body	Tax police of the State Fiscal Service of Ukraine	Security Service of Ukraine	National Police
1.	Implementation of measures of pre-trial investigation of criminal offenses	p. 350.1.2 p. 350.1.4 p. 350.1 Art. 350 of the Tax Code of Ukraine	p. 3 of Art. 24 of the Law of Ukraine "On the Security Service of Ukraine"	Part 1 of Art. 23 of the Law of Ukraine "On the National Police"
2.	Powers to draw up a report on administrative offenses	p. 350.1.10 p. 350.1 Art. 350 of the Tax Code of Ukraine	p. 4-1 h. 1 Art. 25 of the Law of Ukraine "On the Security Service of Ukraine"	p. 1-2 Part 1 of Art. 255 of the Code of Ukraine on Administrative Offenses
3.	Powers to implement preventive measures	p. 350.1.5 p. 350.1 Art. 350 of the Tax Code of Ukraine	p. 8 of Art. 24 of the Law of Ukraine "On the Security Service of Ukraine"	p. 1-2 Part 1 of Art. 23 of the Law of Ukraine "On the National Police"
4.	Powers to conduct operational and investigative activities	p. 350.1.2, p.350.1.4 p. 350.1 Art. 350 of the Tax Code of Ukraine	p. 8 of Art. 25 of the Law of Ukraine "On the Security Service of Ukraine"	p. 3 Part 1 Art. 23 of the Law of Ukraine "On the National Police"

Source: compiled by the author on the basis of the provisions of the Tax Code of Ukraine [15], the Law of Ukraine "On the Security Service of Ukraine" [16], the Law of Ukraine "On the National Police" [17].

We believe that the creation of a single law enforcement agency in the field of financial security is an urgent problem. In early 2020, the Razumkov Center conducted a sociological survey to determine the level of confidence in the work of law enforcement agencies in Ukraine. 65% from 2018 respondents aged 18 and over in all regions of Ukraine expressed distrust in the National Anti-Corruption Bureau of Ukraine, 66% – in the prosecutor's office, 69% – in the National Police of Ukraine [18].

According to the official information provided on the official website of the Verkhovna Rada of Ukraine, a number of draft laws on the establishment of a single law enforcement body to ensure the financial security of the state have been registered in Ukraine. Thus, in 2018 3 of such projects were registered: the draft Law on the National Bureau of Financial Security of Ukraine № 8157 dated 19.03.2018; draft Law on the National Bureau of Financial Security of Ukraine № 8157-1 dated 20.03.2018; draft Law on the Legal Principles of the Organization and Activity of the Financial Police № 8157-2 dated 03.04.2018. New bills were registered in 2019 to create a single law enforcement agency that ensures the financial security of Ukraine: draft

Law on the Bureau of Financial Investigations №1208 dated 30.08.2019; draft Law on the National Bureau of Financial Security of Ukraine №1208-1 dated 10.09.2019; draft Law on the Bureau of Financial Investigations №1208-2 dated 18.09.2019.

In 2020, new draft laws on the establishment of a single law enforcement body were submitted to the Verkhovna Rada of Ukraine: draft Law on the Bureau of Economic Security №3087 dated 19.02.2020; draft Law on the Bureau of Economic Security № 3087-1 dated 06.03.2020.

## Conclusions

Thus, the issue of creating a single law enforcement agency as a subject of financial security of Ukraine with the provision of its wide range of powers on the issue of pre-trial investigation of economic crimes is a completely justified need of the time. Doctrinal developments of this problem and analysis of society's attitude to the work of the law enforcement system in this area have become the basis for a number of actions in the legislative field. We have presented a number of draft laws on the functioning and activities of such a law enforcement agency. There were: Bureau of Economic Security, Bureau of Financial Investigations, National Bureau of Financial Security of Ukraine, Financial Police. It should be noted that these bills have both positive aspects in the completeness and correctness of the declaration of the mechanism for ensuring financial security and the work of the body, as well as ambiguous provisions that need detailed elaboration.

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