

## **PUBLIC INTEREST IN BUDGET LEGAL RELATIONS – UKRAINIAN EUROPEAN ASPECT**

*OKSANA MUZYKA-STEFANCHUK<sup>1</sup>, NATALIYA GUBERSKA<sup>2</sup>*

### **Abstract**

The research is devoted to the problems of public interest in budget legal relations. Proved that the public interest is a thing that unites all members in civil society between themselves, state and public power authorities, between Ukraine and EU. The problems of delimitation of the terms “interest”, “legitimate interest”, “interest protected by the law”, “private interests” and “public interests” are analyzed. It is argued that the prevalence of imperative methods of legal influence in the budget law of Ukraine and EU does not assume any possibility for a party under control to impact on taking decisions by the managerial party. Stages in the development of public interest in budget legal relations are investigated. The Author’s definition of the concept of public interest in the budget law (legal relations) is offered. It is proved that in the budget legal relations the people who are the source of power do not realize public interest. It is concluded that the public interest of public power authorities in budget legal relations is the main reason if not all but most legally significant actions in the sphere of the budget at national and local levels.

### **Keywords**

Budget; budget law; budget legal relations; public interest; private interest

**JEL Classification: D63, K00, K15**

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1 Doctor of Law, professor, Taras Shevchenko National University of Kyiv. Contact email: oa.stefanchuk@gmail.com.

2 Doctor of Law, assistant professor Taras Shevchenko National University of Kyiv. Contact email: gubernat@bigmir.net.

## 1 Introduction

The purpose of the article is to study the problems of public interest in budget legal relations, as well as inter-budgetary relations, which is one way to ensure the combination of interests of all subjects of these relations. In addition, it is necessary to clearly define the budgetary interests of public authorities. Having clearly defined interests, one can clearly outline the limits of budgetary authority. Such boundaries are important for differentiation of budgetary and tax relations, which differ, in particular, on subjects. And where there are such subjects as individuals, there are private interests of a material and financial nature. In this regard, the issue of defining public interest in budgetary relations does not waste its relevance.

While preparing this material, we used the work of scientists and practitioners from different countries, such as L. Voronova (2007); Jr. R.D. Lee, R.W. Johnson, Ph.G. Joyce (2013: 656); A.C. Hyde (2001: 480); H. Šimović (2005: 245-262); V. Chernadchuk (2009); A. Nechai (2000); O.A. Muzyka (2004); S. Zapolskij (1992); A. Kovalchuk (2005; 2009); A. Wildavsky (1992); P. Anessi, M. Sicilia (2015: 819-840).

## 2 Interest and its Types in Law and Legislation

Interest is a thing that unites all members in civil society between themselves, state and public power authorities, between Ukraine and EU. Let's mention that sometimes it is rather difficult clearly to distinguish some or other approach, Author's vision of category "interest"; in some cases, the approach of scientist may even be changed. This means rather a certain convention than the generalization of such division. Hereby, there is no uniqueness in understanding the category "interest" both in national and European law administration and enforcement practice.

Let's mention that the regulatory legal acts refer to "legitimate interests", "legally protected interests". In the opinion of Yu.S. Zavialov (1968: 157-158), the abovementioned concepts are identical, instead, some Authors are inclined to differentiate (Sabikenov, 1986: 45) them. O.I. Chepys (2009: 552) distinguishes the categories "legitimate interests" and "legally protected interests" as objects of legal protection. Within this aspect, there are two objects of legal protection – subjective regulatory rights and legally protected interests. Hereby, it is necessary to take into consideration the fact that the protection of public interest shall be carried out not for the protection of the state itself as a final goal but for the most efficient realization of rights at private persons (Dankov, 2005).

The Contract about EU (Lisbon agreement of 2007) mentions the concepts “common interest”, “mutual interest”, “fundamental interest”, “strategic interest”. All these kinds of interests are united by one – “public interest”.

The text of Constitution of Ukraine contains the concept “interest” (its kinds) within its widest meaning for many times: Art. 18 (national interests), Arts. 32, 34, Arts. 36, 39 (interests of national security), Art. 35 (interests of public order protection), Art. 36 (political, economic, social, cultural interests), Art. 41 (interests of society), Art. 44 (economic and social interests), Art. 54 (moral and material interests), Arts. 79 and 104 (interests of all compatriots), Art. 89 (public interest), Art. 121 (interests of citizen, state), Art. 127 (professional interests of judges), Art. 140 (joint interests of territorial communities in villages, settlements and cities). Pointing to availability of such interests, the Constitution of Ukraine emphasizes the necessity in their provision (Art. 18), satisfaction (Art. 36) or protection (Arts. 44, 127). Hereby, the content of interests is not broadly defined. Only the Act of 19 June 2013, on National Security of Ukraine,

(1) contains the definition of term “national interests” – as vital material, intellectual and spiritual values of Ukrainian people as a carrier of sovereignty and the single source of power in Ukraine, determinative needs of society and state, which realization guarantees the state sovereignty of Ukraine and its progressive development (Art. 1). In this occasion, we should also remind on the decision by the Constitutional Court of Ukraine, dd. 1 December 2004, in the case about official interpretation of certain provisions in P. 1 Art. 4 of Civil Procedural Code of Ukraine (a case about legally protected interest) (7), where 3.1 mentions that the etymological content of word “interest” includes: a) attention to someone, something, commitment in someone, something; curiosity, admiration; b) importance; significance; c) a thing that interests someone most of all, that makes sense of someone’s thoughts and concerns; d) aspiration, needs; e) a thing that is beneficial to someone, something, conforms to someone’s aspiration, needs; profit, benefit, gain. In common sociological meaning the category “interest” is understood as an objectively existing and subjectively realized social need, motive, incentive, causal agent, incitement to action; in psychology – as an attitude of personality to a subject, as to something valuable for it, such one that attracts. In legal acts the term “interest”, taking into consideration both its etymological and general sociological, psychological meaning, is used within a wide and narrow meaning as an independent object of legal relations, which realization is satisfied or blocked by regulatory methods.

In Sec. 3.5 of decision mentions that interest may be legally protected, law protected, legal and illegal, i.e. such one that is not protected either by legislation, or by law, shall not be satisfied or provided by them as such interest is directed

to infringe upon rights and freedoms of other natural persons and legal entities, restricts the interests of society, state or “all compatriots”, protected by Constitution and laws of Ukraine or does not conform to the Constitution or laws of Ukraine, generally recognized principles of law. The lawmaker makes the emphasis on “legal protection” or legality in some or other interest not always taking into consideration the fact that the interests, mentioned in legal provisions, do not contradict to the Constitution of Ukraine or arise from its content.

Thus, actually distinguishing the terms “interest”, “legitimate interest”, “legally protected interest”, the Constitutional Court of Ukraine does not point to the substantiation of formal difference between corresponding categories. That’s why there is the task to find this difference and to point to the expediency or in expediency in the application of these terms in existing civil legislation of Ukraine (Chepys, 2009: 551). In our opinion, the public interest of public power authorities in budget legal relations is always legitimate and at the same time legally protected the interest.

The category of interest in the public law allows defining the subject of legal regulation – social relations that are formed on occasion of realization of social interests as a single whole, i.e. social relations with the participation of state (Mikhailov, 2002: 66), as well as public power authorities.

### **3 Signs of Publicity in Financial Legal Relations**

As A.A. Nechai (2004: 29) reasonably writes, the criterion for differentiation of public and private part in law, is the interest: the state interests, legal status of its authorities, official, as well as regulation of relations that are distinguished with vividly expressed social character is of prevalent importance for public law; the interests of certain persons are the main ones for private law. Let’s mention that the national doctrinal developments of issues from public and private interest do not suit in full for European law as Ukraine has its own division into the sectors and subsectors of law; such division cannot be copied to the law in other EU countries, thus, it is not worth speaking about similar division of right into public and private in Ukraine and EU. As it concerns the public interest, so, it still has the same manifestation in budget relations both in Ukraine and other EU countries.

In opinion of A.A. Nechai (2004: 17-18), the legal features of “publicity” in social phenomena may include 1) ownership in object under research: state ownership or community ownership, 2) purpose for use of object under research: whether it is used within the interests of the whole humankind, the whole state, the whole nation, the whole community or the whole union of people, established not due to class

principle. As O.A. Lukashev mentions, the features of publicity “may undoubtedly apply to characteristics of financial relations, which publicity is shown through assignment of ownership at administrative territorial formations for monetary funds that are accumulated in centralized funds and purpose of their use – provision with fulfillment of functions and tasks of state and territorial communities. The principles for analysis of public finances are characterized by such original provisions in the most general form” (Lukashev, 2009: 404).

In opinion of E.D. Sokolova (2008: 15), “the principle for combination of public and private interests in the sphere of finances is shown in the fact that the state, establishing the rules of common game” in civil turnover, anticipates the conditions for participation of all business entities regardless of pattern of ownership in establishment of centralized state funds of monetary assets. In its turn, it stipulates the necessity in the performance of state financial control for financial activity of business entities regardless of their pattern of ownership.

During development of jurisprudence, most of the scientists-lawyers in the sphere of financial law have not doubted and do not doubt the fact that financial law is the public sector of law and regulates the public relations. Analyzing the concept of public law, the theoreticians make the conclusion that this is the subsystem of law that reflects the state, interstate and public interests. As a result from the appearance of new objects that requires the public legal regulation (self-government, parties, public unions, etc.). For financial law, this means the enlargement of its subject, inclusion of relations that appear on occasion of mobilization, distribution, and use of monetary funds into it, for example, local self-government (Nechai, 2000: 56). The changes in relations of ownership in post-Soviet countries have stipulated the changes in the subject of financial law – in particular, the financial activity of local self-government was included into it (at present moment we will not fix on the issue about inclusion of financial activity at local self-government into the subject of financial law as it has already found its solution in the science of financial law (Muzyka, 2004). Hereby, the publicity of financial relations has not been doubted.

However, some recent publications on issues of financial law to a certain degree call in question the whole concept of financial law as public one. So, unlike the statements about public character of financial legal relations, being provided, there are the thoughts that require the special consideration. For example, A.T. Kovalchuk writes: “the determinative peculiarity of financial law under market conditions is not the hard opposition or boundary differentiation of “public” and “private” but their organic combination and interlacement in those financial aspects, where the principle of legal equality, coordination and agreement prevails and which are generated by market reality at the corresponding levels of financial economic

system” (Kovalchuk, 2009: 13). “The narrow idea about financial law is incorrect, i.e. its restriction only by limits of public law” (Kovalchuk, 2005: 103). Such opinion seems to be doubtful. If we state that the financial law regulates not only public but private relations, so, in fact it cancels the need in existence of the main criteria for division of rules at law system due to sectors, namely due to subject and method of legal regulation. The rules of financial law regulate the relations of power property character. Figuratively speaking, they are the relations of power character, which related to money (funds). However, this “money” has its own peculiarities that differ it from that money, which are the objects of civil legal relations. Money in financial law always relates to public interest. In civil law there is private interest, even the state may have its own private interest (for example, in relations of interstate loans, an issue of state lottery), although hereby private interest to some extent relates to public interest. The rules of (Civil Code of Ukraine (Civil Code, no. 435-IV, no. 435-IV) in particular testify to this fact. According to Art. 81 in this act, legal entities, depending on procedure for their establishment, are divided into legal entities of private law and legal entities of public law. The latter ones are established by directive act from the President of Ukraine, state authority, authority of ARC or local self-government. According to P. 2 Art. 2 in (Civil Code, no. 435-IV, no. 435-IV) the participants in civil relations are State Ukraine, ARC, territorial communities, foreign states and other entities of public law. In our opinion, any from abovementioned entities of public law, while entering the civil legal relations, for example, again the relations of “loan character” (concluding credit, loan agreements and acquiring a status of creditor or debtor), realize all the same public interest as loaned funds in 99% of cases will be used to satisfy the public needs of the state, region, population. Besides, in either case the realization of private interest stipulates the appearance of financial legal relations, in particular, budget relations in the sphere of public debt.

The thought, set forth by A.T. Kovalchuk, may also be acceptable for the financial law of EU countries as the budget and tax law that are considered within economic relations are never distinguished into legal formation there. L.N. Dreval (2008: 113) states that it is incorrect to consider as if private onset is unknown to public financial activity. The realities of life point out to the fact that the state anyhow exceeds the limits of its financial activity. As the confirmation, they provide the opinion of another scientist – D.A. Lisitsyn (2004: 12), who writes that the state does not create any money (here we speak not about emission – Author), it can receive it through transfer of money from non-state into state ownership (as well as – into municipal one – Author) through collection of taxes, other compulsory payments, etc., and, vice versa, it may transfer this money to other entities, including non-state ones. That is we speak about the constant and absolute relation of the private and public law in budget law and budgetary activity, that the one depends on the other or is the

prerequisite for the origin of the other. But not about interference or acquisition of private relations by a public sphere or vice versa.

The statement by S.V. Zapolskyi (2008: 22-23) that the state carries out its financial activity both as a subject of public power and a carrier of private property interest seems to be rather appropriate in this plane. As “it would be incorrect to consider that the private onset is unknown to financial activity of the state”, the scientist also thinks that it is admissible to call the realization of private law interests by the state also as the financial activity. Similarly, we can speak about private property interests at local self-government in budget legal relations but in no case, one can state that the budget legal relations under such circumstance acquire the feature of the private law.

Private interest in public power will always take place as public power is realized by people, who have private interests. In this connection, the constant task of state and society shall be the maximum neutralization of private interests, not Authorized by legislation, in public power as it distorts the purposes and tasks of the state as the general organization of the whole people (Polianskyi, 2002: 52).

The prevalence of imperative methods of legal influence in the budget law of Ukraine and EU does not assume any possibility for a party under control to impact on taking decisions by the managerial party. The development of the country under new economic and state political conditions stipulates the extension in use of the optional method of legal influence on budget relations. The “penetration” of the optional method into the public sphere, namely: budget law – testifies to the possibility for a lawmaker to a certain extent to combine private and public interests (Polianskyi, 2002: 111). Further Yu.A. Krokhhina (2014) mentions that the optionality in relation to public financial sphere shall be considered as granting the entities of budget law with the known alternative possibility for the choice of variants for behavior within the limits of budget legislation. In our opinion, the identification of optional method for legal regulation with Authorized budget legal rules, which all the same are imperative, takes place at such vision of optionality. We believe that it is more reasonable to speak about legal influence on entities and participants in budget relations and about legal regulation of budget relations. One should not identify “influence” and “regulation”. Influence is a derivative of regulation, although it relates mainly to the inner state regulation. When we speak about the law in EU, so, we can state about the availability of purely influence on inner law and not about regulation of inner relations in the sphere of the budget.

Sometimes we can also notice a certain non-agreement in examples that demonstrate the combination and conflicts of interests. So, Yu.L. Smirnikova (2002: 134) mentions the agreement of certain rules in the budgetary provision for the next



budget year still until the adoption of acts about the budget as an example for a way to overcome with the conflict of private and public interest in budget relations. At once there appear the questions: where is here private interest? Who has it? Even if we compare the interests of public power authorities – entities of budget legal relations and budget establishment – so, it is a very disputable question about the availability of public interest at the first ones, and only private interest at later ones.

As R.Ye. Artiukhin (2002: 116) writes, the principle for equality of parties in relations of budget establishments with authorities that provide with the fulfillment of budget enjoys more and more popularization that makes the duties of the parties more symmetrical. So, earlier the duties mainly for budget establishments were fixed in budget legislation and executive power authorities were granted with the rights, so, now, budget establishments are legislatively granted with additional laws, to which the duties of executive power authorities correspond. Such categorical statement about almost full “lack of rights” at budget establishments causes the objection. If the rights are fixed at the sub-legislative layer, so, this does not mean that someone does not have the rights, legislatively fixed (of course if we are based on a wide understanding of concept “legislation” itself). The existence of budget establishments on their own already anticipates the rights to receive the funds from the corresponding budget at them. The availability of acknowledged public interest transforms the economic relations into financial ones and incites the state to regulate the part of money flow by imperative method (Chernadchuk, 2008: 142).

In opinion of M. Perepylytsia (2009: 116), public interest in financial law “logically means the objective needs of society, acknowledged by state and provided by law, in organizational and purposeful mobilization (establishment), distribution and use of general (public) financial resources, which may be expressed in different subject form (funds, other material values), as well as performance of control for these processes, which satisfaction may serve as a guaranty for its existence and development”.

If we use the category “private interest” in financial law, so, we can be sure that a carrier of such interest would never voluntarily want to acquire the status of subordinate entity: no powerful authorities can be applied to it. How will the financial activity of state and local self-government be realized in this case? In which financial legal relations will a state power authority have the power authorities, and in which will not? We would like to receive the answers to these questions from followers for the existence of so-called “complex” sectors of law.

Providing that the “expanding conception concept” of financial law, which was suggested by A.T. Kovalchuk (2005: 103), is adopted, the method of financial law also requires the revision. As it is known, the imperative method is used for



regulation of public relations, in financial law – this is the method of power (state-power) instructions, for private relations – optional method. Thus, the imperative optional method of the legal regulation shall be applied in the “expanded” (public-private) financial law that in fact due to the legal nature of relations, which are the subject of the independent sphere of law, is not admissible. Therefore, the “expanding concept” of financial law, suggested above, could hardly be accepted as such one that would assist to further development of legal regulation of relations in the sphere of public finances. The financial and budget law concerns the sphere of public relations. If private interest appears at entities of those legal relations, so, this automatically transforms them into entities of other property relations, for example, civil legal ones. We should not remember that the participation in some relations does not assume the possibility for parallel (simultaneous) participation of the same entities in other relations.

The issue of interest is very important for financial and budget law. L.K. Voronova (2007: 34) emphasizes that namely in financial legal relations “the state and local self-government show the public financial interest, satisfying the financial needs of the state, certain territorial formations and at the same time all citizens, interested in the constant function of state authorities and local self-government”. E.S. Dmytrenko (2006: 86) on this occasion mentions that the characteristic features of financial law as a sphere of public law is the regulation of relations between state authorities, local self-government, legal entities and natural persons, who are oriented to satisfy the public financial interests using the instructions, issued by state power and which have the categorical and compulsory character .

In the opinion of V.V. Khokhuliak (2004: 5), the category “public interest” in the national science of financial law that is a component of its conceptual categorical construct is applied mainly as a methodological instrument at characteristics and research of certain financial legal institutes. This is the basic, fundamental common scientific concept, as well as one from through categories in the science of financial law. “As one from key cores in definitive identification of financial law as a public sphere of law, this category is used at definition and characteristics of subject, system and principles of financial law, at establishment of sectoral belonging of financial legal institutes, detection of the main landmarks and tendencies in transformation and further development of financial legal system. The content of public interest is certain needs of its subject and its expression is in used ways and means to satisfy these needs” (Khokhuliak, 2004: 9).

In the opinion of V.D. Chernadchuk (2008: 196), we can distinguish the following successive stages in the development of public interest in budget legal relations:

- objective existence of need in budget funds (budget expenses) as a prerequisite for public interest (availability of objective public needs);
- realization of public interest in satisfaction of needs as a prerequisite for the budget activity of subjects (establishment of public needs);
- fixation (recording in budget legal act) of public interest by rules of budget law (definition of public needs) (here it should be mentioned that the Author, being cited, somehow narrowed the limits of fixation as social (public) needs are defined by the rules of the Main Law and other laws or arise from them);
- budget activity and its result as a realized (provided with budget funds) public interest (budget provision of public needs).

There is the inextricable connection between public interest in budget legal relations and objects of those relations. The object of interest in budget legal relations are the weals that satisfy the acknowledged public needs, and the object of legal relations are the funds, defined by act about the budget, on which occasion there is the legal relationship between entities of budget legal relations as to enrollment, distribution and use of budget funds. An entity of budget legal relations is stipulated by public interest, i.e. acknowledged public needs, which are not an entity of budget legal relations, as are an entity of other relations (Chernadchuk, 2008: 196-197).

#### **4 Concept of Public Interest in Budgetary Law and Budget Legal Relations**

Public interest in budget law (legal relations) – this is an objectively existing phenomenon, which does not depend on the will of public power authorities and general compulsory regulatory legal acts, approved by them. Such acts only mediate the existence of public interest but their absence does not exclude the further existence of public interest.

The idea is that “another major distinction between private and public budgeting is the motivation behind budget decisions. The private sector is characterized by the profit motive, whereas government undertakes many things that are financially unprofitable. In the private sector, profit serves as a ready standard for evaluating previous decisions. Successful decisions are those that produce profits (as measured in dollars). Some companies, of course, focus on short-term profits, and others may take a longer-term view, but in the end, failure to achieve a profit or at least break even means the company goes out of business” (Lee, Johnson, Joyce, 2013: 3). So, the issue of public budgeting related to the drafting, review, approval, and execution of the budget is regulated at the legislative level. All decisions are public in nature. The law protects the objective budget interests and only within the limits, which

are acknowledged to be socially significant. According to the rules of Budget Code of Ukraine, the socially significant interested, which are protected by law, are such ones that correspond to existing legislation. Here we mean precisely Art. 116 in Budget Code of Ukraine “Infringements of budget legislation”. Thus, the budget interests of public power authorities may be the ones, related to 1) inclusion of authentic data into budget requests; 2) non-infringement of periods, established for submission of budget request; 3) definition of authentic volumes for budget funds at planning of budget indices; 4) planning only those receipts and expenses of budgets, which are anticipated by Budget Code of Ukraine or law about State Budget of Ukraine; 5) non-infringement of established procedure or periods for submission of draft law about State Budget of Ukraine (draft decision about local budget) for consideration of Verkhovna Rada of Ukraine (Verkhovna Rada of ARC, local council); 6) non-infringement of established procedure or periods for consideration of draft law and adoption of law about State Budget of Ukraine (decision about local budget); 7) taking decision about local budget exclusively according to requirements of Budget Code of Ukraine or law about State Budget of Ukraine (including as to composition of budget in the part of inter-budget transfers, incomes and expenses of local budgets, which are taken into consideration at definition of volume for inter-budget transfers); 8) non-infringement of requirements in Budget Code of Ukraine about approval of state budget (local budget) with deficiency or profit; 9) non-inclusion of receipts from sources, if they are referred to such ones by Budget Code of Ukraine or law about State Budget of Ukraine, into composition of special fund at budget; 10) non-enrollment of budget incomes to any accounts, except single treasury account (except the assets that are received by establishments of Ukraine, which function abroad), as well as their accumulation in accounts of authorities that control the collection of budget receipts; 11) non-enrollment of budget incomes to budget, other than defined by Budget Code of Ukraine or law about State Budget of Ukraine, including as a result from division of taxes and duties (compulsory payments) and other incomes between budgets with infringement of determined sizes; 12) making the state (local) loans, rendering the state (local) guarantees according to requirements of Budget Code of Ukraine; 13) not taking the decisions that cause to excess of limit volumes for state (local) debt or limit volumes to render the state (local) guarantees; 14) non-placement of temporary free budget funds with infringement of requirements in Budget Code of Ukraine; 15) prohibition for establishment of extra-budget funds, opening the extra-budget accounts to place the budget funds; 16) non-infringement of procedure or periods for submission, consideration and approval of estimates and other documents that are used during fulfillment of budget, as well as approval of indices in estimates, which are confirmed by calculations and economical substantiations; 17) observance of procedure or periods for submission and approval of passports for budget programs (in case if the special-purpose program is used in budget process); 18) observance of periods,

established for proof of documents about volumes of budget appropriations to managers of budget funds at low level or recipients of budget funds; 19) observance of procedure and periods to open (to close) accounts at authorities of Treasury of Ukraine; 20) acceptance of obligations with corresponding budget appropriations and according to authorities, established by Budget Code of Ukraine or law about State Budget of Ukraine; 21) observance of procedure for registration and accounting of budget obligations; 22) non-infringement of requirements in Budget Code of Ukraine while making the previous payment for goods, works and services to account of budget funds, as well as observance of procedure and periods to make such payment; 23) not making the payments to account of budget funds without registration of budget obligations; 24) special use of budget funds; 25) observance of requirements in Budget Code of Ukraine while making the expenses of state budget (local budget) in case of untimely adoption of law about State Budget of Ukraine (untimely taking decision about local budget); 26) not rendering the credits from budget or return of credits to budget according to requirements in Budget Code of Ukraine; 27) making the loans in any form by budget establishments or granting the credits from budget by budget establishments to legal entities or natural persons according to Budget Code of Ukraine; 28) not making the expenses, crediting the local budget, which shall be carried out from another budget; 29) non-infringement of requirements in Budget Code of Ukraine as to allocation of assets from reserve fund of budget; 30) non-infringement of requirements, established to application of budget classification; 31) inclusion of authentic data into reports about fulfillment of state budget (local budget), annual report about fulfillment of law about State Budget of Ukraine (decision about local budget), as well as observance of procedure and periods for submission of such reports; 32) observance of requirements, established to run accounting and to compose reporting about fulfillment of budgets; 33) observance of procedure and periods, established for submission of financial and budget reporting or budget establishments, as well as submission of such reporting in full; 34) provision with conformity of data, provided in financial and budget reporting of budget establishments, accounting data; 35) inclusion of authentic data into reports about performance of passports for budget programs (in case if the special-purpose program is used in budget process), as well as observance of procedure and periods for submission of such reports; 36) issue of regulatory legal acts that do not reduce the receipts to budget or increase its expenditure part in contrary to the law; 37) making expenses to keep a budget establishment; 38) observance of procedure for disclosure and availability of information about budget, etc.

One of the ways to provide with the combination of interests at all entities of these relations is the construction of the hierarchy of those interests at the legal regulation of inter-budget relations. Taking this fact into consideration, the main criteria to

establish the limits for the satisfaction of interests at state Ukraine that really have the higher place in the hierarchy of interest are budget interests of its administrative territorial units and local self-government, which shall not be restricted.

The realization of public interest in budget legal relations has certain restrictions. We mean the restriction of its realization through the expression of will. According to Art. 69 in Constitution of Ukraine the people's expression of will is carried out through elections, referendum and other forms of direct democracy. Thus, it is not allowed to perform the referendums about draft laws on issues about taxes, budget, and amnesty (Art. 74 in Constitution of Ukraine). The possibility for realization of public interest in budget legal relations through elections seems to be doubtful. There are only "other forms of direct democracy", which traditionally include different meetings, forums, public discussions, demonstrations, addresses of citizens, rarely – not peaceful forms (starvation in protest against something, strikes, picketing, rebellions, etc.). It is rather problematic to refer these forms to the forms for the realization of public interest in budget legal relations. There is the question: how is the public interest realized in relations, which are considered? In our belief, the people (despite the fact that according to Art. 5 in Constitution of Ukraine it is a carrier of sovereignty and the single source of power in the state) is not able really to realize the public interest in budget legal relations, thus, its realization relies namely on public power authorities.

It is believed that public budgeting is also about assigning responsibility for accomplishing the results intended by the executive and legislative actors that ultimately set the budget. Budgets are generally executed by individuals in large bureaucracies (Lee, Johnson, Joyce, 2013: 2). But such a statement is somewhat erroneous or too narrow, given that individuals as such are not subjects of budget legal relations. When we call individuals among subjects, they mean officials – budget funds managers, heads of budget institutions, acting on behalf of the institution and solely in the public interest. In general, budget execution is a function of executive power, not individuals.

## **5 Conclusions**

The public interest of public power authorities in budget legal relations is the main reason if not all but most legally significant actions in the sphere of the budget at national and local levels.

In our opinion, the public interest of public power authorities in budget legal relations establishes the connection of these authorities with natural persons and legal entities of different legal forms, hereby such connection is mediated by budget

(as a legal category, i.e. the act about budget that grants certain authorities to receive the incomes and to make the expenses by corresponding bodies and establishments; as an economical category as it is the fund of assets that are practically spent, in particular, to keep concrete establishments, to pay out salaries, pensions) and defines the subject of budget law, which are the relations, related to budget activity.

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