

CHAPTER 2

LEGAL RELATIONS: FROM THEORY TO PRACTICE

LEGAL REGULATION OF THE USE OF FINANCIAL CONTROL TOOLS FOR PUBLIC ADMINISTRATION OF HIGHER EDUCATION INSTITUTIONS

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Abstract. *The issue of financing higher education institutions plays an important role in the development of every society. The purpose of the article is to improve the legal regulation of the use of financial control tools for public administration of higher educational institutions. The main methods that were used in the research are: methods of comparative analysis, to compare normative acts of Ukraine, which regulate the use of financial control tools for public administration of higher education institutions; methods of analysis and synthesis, generalization methods and others. The article analyzes the main models of financial control over education funding: Anglo-Saxon and continental models. To evaluate the effectiveness of the funds spent by the state on the proposed mechanism of public administration of higher education institutions with financial control tools, which includes: a mechanism for evaluating the scientific activity of higher education institutions; the IT audit mechanism of the grounds for the formation of a state order for the training of students by institutions of higher education; the mechanism of financial control over the distribution of budget funds depending on the results of the scientific activity of the institution of higher education. A mechanism of public administration of higher education institutions with financial control tools has been developed, which includes such basic elements as: purpose, tasks, objects and subjects, main structural components. The main directions of interaction between subjects of the mechanism of public administration of higher education institutions with financial control tools have been established. Directions for establishing the relationship between normative acts of Ukraine on issues of public administration of institutions of higher education and instruments of financial control have been developed.*

Keywords: *financial control tools; financial control mechanism; institution of higher education; budget funds; distribution of budget funds; public administration.*

JEL Classification: A22, H52, I18

Formulas: 0; **fig.:** 5; **tabl.:** 1; **bibl.:** 22

Introduction. One of the main issues facing Ukraine, which has chosen a course for European integration, is the reform of the public administration system, in particular regarding public finances. The effectiveness of this system is a guarantee of state provision of social guarantees for citizens, including the right to receive quality education, one of the important components of which is higher education.

The level of development of the country's educational system is one of the key indicators used to determine the global competitiveness index, and financial investments in education are the most important investments in human capital.

Reforming the education system, especially higher education, with limited state financial resources and the search for sources of filling the own income of higher education institutions requires a qualitatively new mechanism for state financial control over their spending. Under such conditions, the issue of public administration of higher education and control over the activities of higher education institutions becomes relevant.

But reforms in any sphere, and especially in education, should be carried out so that the consequences of changes contribute to the development of Ukraine as a whole, and national education does not lose its achievements.

Literature review. Both foreign and domestic scientists pay considerable attention to the study of management problems of the higher education system. In particular, such scientists and practitioners as L. Antoshkina [1], V. Ivanov [2], O. Karpyuk [3], S. Krysyuk [4, 5], T. Lukina [4], V. Lazarev, S. Mokhnachev [6], N. Protasova [4, 7], M. Shevchenko [8] and others [9-10]. Along with this, there are many debatable issues in the theory of public administration of higher education.

Any strategy for the development of education, including higher education, first of all depends on the processes of its organization, management and control. Education as a self-organized system that adapts to constant changes, responding to the challenges of time, requires a transition from the traditional educational model, based on the priority of simple assimilation and reproduction of information, to the educational model as a means of comprehensive development and satisfaction of individual needs, when education is perceived as a commodity, and not as a state or public matter [5].

It is under such conditions that the role of interrelated processes is strengthened: public administration of education and the autonomy and responsibility of higher education institutions when making management decisions regarding the provision of educational services.

Aims. The purpose of the article is to improve the legal regulation of the use of financial control tools for public administration of higher educational institutions.

Methodology. The main methods that were used in the research are: methods of comparative analysis, to compare normative acts of Ukraine, which regulate the use of financial control tools for public administration of higher education institutions; methods of analysis and synthesis, generalization methods and others.

Results. Ukraine's aspirations for integration into the world economic space urgently require reforms in the field of public administration, in particular, one of its effective instruments – state financial control. On this path, the issue of adapting best international practices to the creation of a new model of the financial control system in

Ukraine, including control over the activities of higher education institutions, becomes relevant.

In most countries, the effectiveness of the system of public financial control is ensured by the supreme financial control body (WCDF), which is independent in status.

Along with this, there are two main models of the VOKDF system [1], namely:

- 1) Anglo-Saxon model (USA, UK, Canada, Australia, Israel, Malaysia, Thailand and others), which is characterized by the dominance of a monocratic structure.

Under this system, state financial control is exercised by hierarchically organized structures under the leadership of the president or auditor general, who are elected by direct election or appointed by agreement between the legislature and the highest executive official. In particular, in the UK, such control is carried out by the National Control and Audit Office, which is a government body and operates in accordance with the Financial Control Act. The sphere of its activity is control over all government agencies and government agencies, through which more than 60% of expenses pass, and state corporations;

- 2) continental model (Germany, France, Italy and other European countries), which provides for the assignment of control functions to the accounting chambers established by the highest authorities, which are independent in internal and external issues of their activities. Along with this, there are other institutions that exercise control over the budget.

In particular, in Germany, the tax audit of enterprises and taxation of foreign investments is carried out by the Federal Office of Finance, the current control over the budget is carried out by the Federal Control and Audit Service. Along with this, the highest independent collegial body of state financial control is the Federal Accounting Chamber of Germany, which controls all federal enterprises, insurance institutions, private enterprises with 50% participation in state expenditures, as well as all other organizations and enterprises, if they manage public funds or are protected by state guarantees.

The experience of Ireland is noteworthy, where the Office of the Comptroller-Auditor General is an independent state audit body, the legal basis for the organization of which is defined in the Constitution. The mission of the Office is to conduct independent research and report to parliament on the legality and efficiency of the use of state funds and resources, as well as the correctness of accounting for state property. At the same time, the Department has no authority to take administrative measures of influence against audit objects for non-compliance with legal conditions. The Department shall notify the relevant higher authorities about cases of violations. The objects of the audit (except for public authorities) pay for the audit services of the Department in accordance with the invoices issued by it. The costs of auditing authorities are compensated at the expense of the state budget [11].

So, despite the diversity of models of organization of the system of public financial control, there are common features. In particular, the independence of VODFC, which ensures the objectivity and efficiency of control procedures.

Secondly, despite the national specifics of countries, taking into account their historical and economic development, all models have common tasks and general

principles for the work of control bodies, including the existing methodology and standards. An unambiguous role is played by a well-established staffing system and its motivation.

Thus, in order to build a new model of public financial control in Ukraine, it is necessary to radically change the system of its organization through the legislative definition of a single supreme financial control body that would determine the tasks, methods and performance indicators from the performance of functions assigned to other bodies that provide state financial control in all aspects of public life to avoid duplication of functions, and evaluate their activities.

Simultaneously with these changes, the legislative framework that defines the range of acts on regulating state financial control and providing it with a methodology, in particular in the field of higher education, needs to be changed.

In modern conditions, higher education in Ukraine is also in the process of reform, which concerns licensing, accreditation, evaluation of research results and financing of higher education institutions. Despite the large number of scientific achievements of scientists who paid attention to this issue, the mechanism of public administration of higher education institutions by financial control instruments has not been studied deeply enough.

The results of previous studies have shown that there is a close relationship between the fulfillment of licensing and accreditation requirements, including the results of scientific activity, and the level of students' education, that is, the effectiveness of state funds spent on their training.

The solution to this problem is possible subject to the development of a mechanism for public management of higher education institutions with financial control instruments. Based on the conducted research, we propose a conceptual approach to improving the mechanism of public administration of higher education institutions with financial control tools. In particular, the concept of "mechanism of public administration of higher education institutions with financial control tools" should be understood as a system of measures and methods of public administration of financing the activities of higher education institutions.

The mechanism of public administration of higher education institutions with financial control instruments should include such components as:

- mechanism for evaluating the scientific activity of higher education institutions;
- IT audit mechanism of grounds for forming state procurement for training students by higher education institutions;
- mechanism of financial control over the distribution of budget funds depending on the results of scientific activity of the higher education institution (Fig. 1).

Each of the mechanisms indicated in Fig. 1, on the one hand, is interconnected with others, and on the other, is a separate mechanism of public administration of higher education institutions.

The mechanism of public administration of higher education institutions by financial control instruments should take into account such basic elements as: purpose, objectives, objects and subjects, main structural components (Fig. 2).

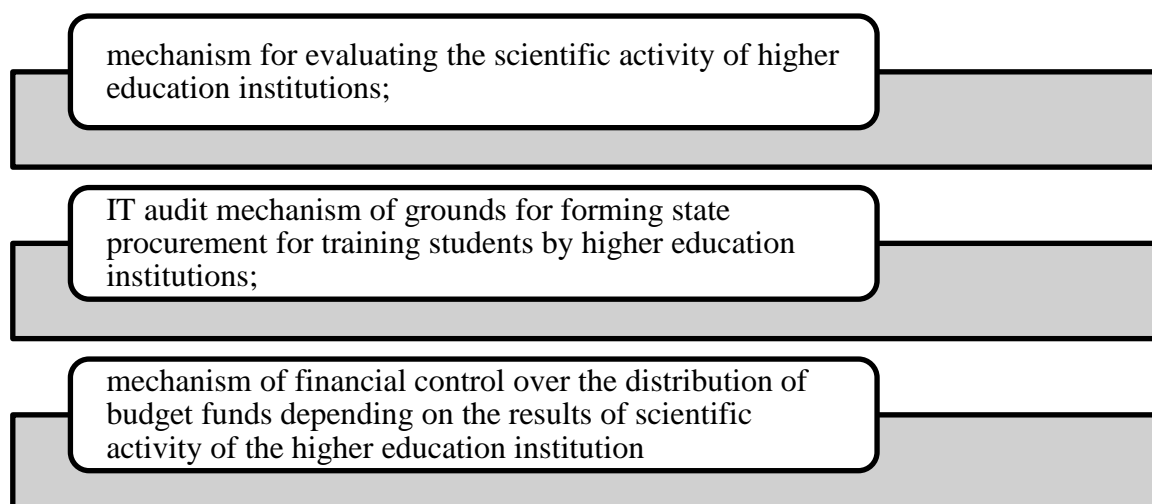


Figure 1. The main stages of implementation of the mechanism of public administration of higher education institutions by financial control instruments

Source: developed by authors [1-18]

Public administration mechanism higher education institutions, financial control instruments;						
Objective: state control over the efficiency of spending budget funds provided to finance the activities of higher education institutions						
Objects:						
Higher education institutions of Ukraine of III-IV accreditation levels						
Subjects:						
Cabinet of Ministers of Ukraine			Account Board of Ukraine	State Audit Service of Ukraine	State Statistics Service of Ukraine	National Agency for Higher Education Quality Assurance
Ministry of Economic Development, Trade and Agriculture Ukraine	Ministry of Finance of Ukraine	Ministry of Education and Science of Ukraine				
The structure of the mechanism of public administration higher education institutions, financial control instruments;						
Mechanism evaluation of the results of scientific activity of higher education institutions			The mechanism of financial control over the distribution of budget funds depending on the results of scientific activity of a higher education institution			

Figure 2. Mechanism of public administration of higher education institutions with financial control instruments

Source: developed by the authors (taking into account the changes made by the Resolution of the Cabinet of Ministers of Ukraine dated September 2, 2019 No. 829)

The main purpose of the mechanism of public administration of higher education institutions with financial control instruments is to exercise state control over the efficiency of spending budget funds provided to finance the activities of higher education institutions.

The objects of the proposed mechanism are higher education institutions of Ukraine of III-IV accreditation levels.

The main subjects of the mechanism of public administration of higher education institutions with financial control instruments are:

- the Cabinet of Ministers of Ukraine, including the Ministry of Economic Development, Trade and Agriculture of Ukraine, the Ministry of Social Policy, the Ministry of Finance of Ukraine, the Ministry of Education and Science of Ukraine;

- Pension Fund of Ukraine;
- Account fee of Ukraine;
- State Audit Service of Ukraine;
- State Statistics Service of Ukraine;
- State Employment Service of Ukraine;
- National Agency for Higher Education Quality Assurance.

The interaction between these subjects of the mechanism of public administration of higher education institutions with financial control instruments is presented in Fig. 3.

In particular, the dashed line in fig. 3 marked state government and management bodies that currently do not participate in the public administration of higher education institutions in the matter of financial control over the distribution and use of budget funds for student training.

At the same time, these bodies play a leading role in determining the needs of the state in forming the volume of state procurement for training specialists and, accordingly, adequate financial support for this training.

Let us consider the interaction between the subjects of the mechanism of public administration of higher education institutions with financial control instruments in more detail.

Thus, the *State Statistics Service* of Ukraine is the central executive body that ensures the implementation of state policy in the field of statistics, submits data to the Ministry of Economic Development, Trade and Agriculture of Ukraine to form a medium-term forecast of the need for specialists and workers in the labor market.

At the same time, a higher education institution must annually report on the number of graduates not only to the State Statistics Service, but also to the State Employment Service, which will find out the actual state of employment of graduates and the real need for specialists in each field of student training in higher education institutions, which will allow adjusting the number of state-procured places for the next academic year.

Based on the information received, the State Employment Service of Ukraine will inform the Ministry of Social Policy of Ukraine about the need for specialists in each specialty in Ukraine as a whole and in individual regions, and the latter will inform the

Ministry of Economic Development, Trade and Agriculture of Ukraine about the state of the labor market.

We believe that analysis and forecasting of the labor market should become mandatory in order to develop an appropriate methodology for forming state procurement for the next academic years on their basis.

No less important is the information of the *Pension Fund of Ukraine* on the number of people who retire and/or remain working annually, which affects the number of vacancies for young people and should be taken into account when forming state procurement.

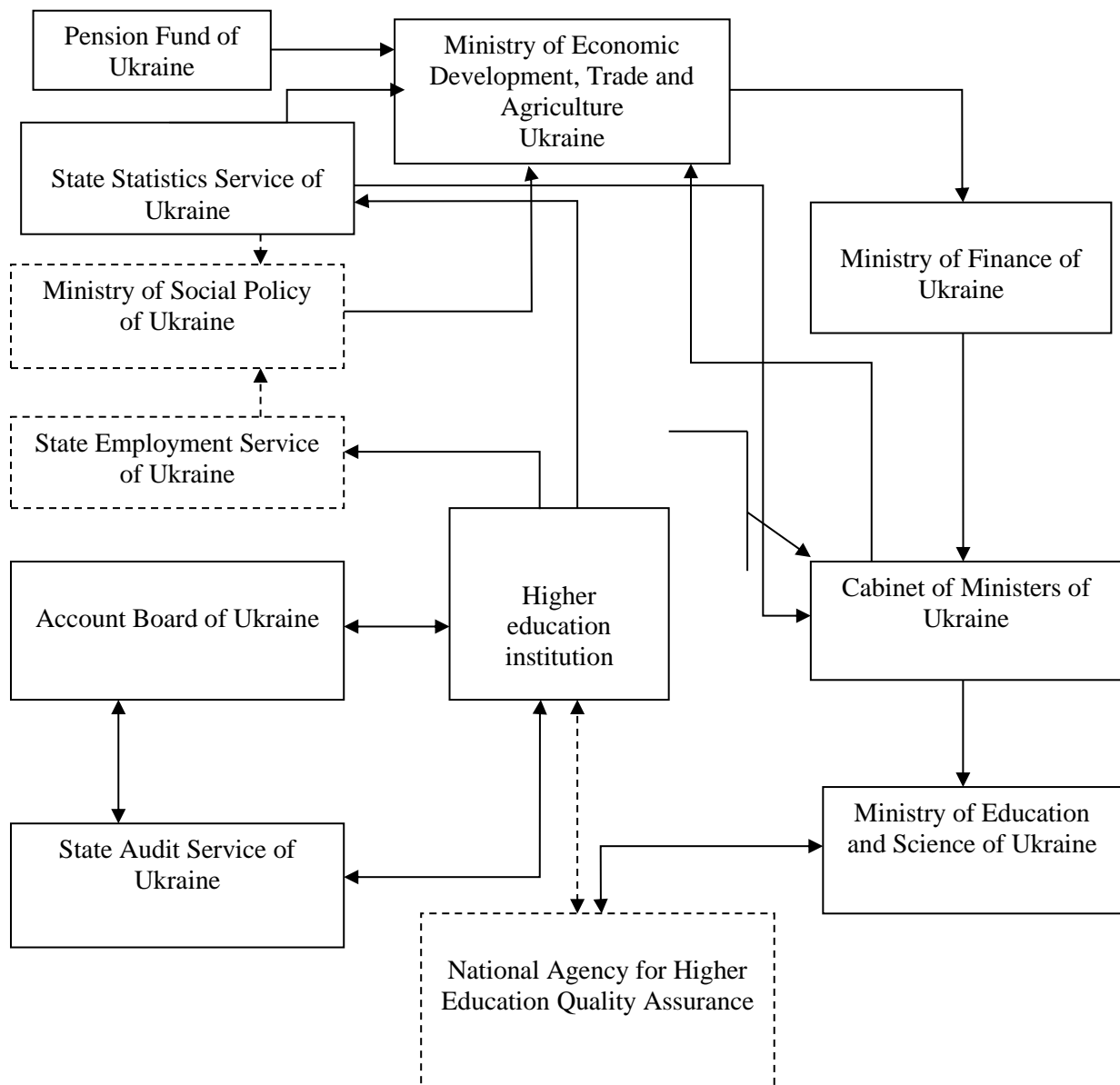


Figure 3. Interaction between the subjects of the mechanism of public administration of higher education institutions by financial control instruments

Source: developed by authors

The Ministry of Economic Development, Trade and Agriculture of Ukraine – on the basis of the information received ensures the formation and implementation of state policy in the field of state procurement.

In particular, the formation of state procurement is carried out on the proposal of agents of state procurement, as an example of the Ministry of Education and Science, taking into account the medium-term forecast of the need for specialists and workers in the labor market and the amount of expenditures of the State Budget of Ukraine for these purposes. At the same time, the medium-term forecast of the need for specialists and workers in the labor market is compiled by the Ministry of Economic Policy and Trade on the basis of data provided by the State Statistics Service, taking into account proposals of other central executive bodies, regional, Kyiv City State Administration, National Academy of Sciences of Ukraine, sectoral national academies of sciences, other budgetary institutions, the joint representative body of all-Ukrainian trade unions and trade unions, as well as the joint representative body of employers at the national level.

The Ministry of Economic Development, Trade and Agriculture of Ukraine determines the consolidated project volumes of state procurement and submits them to the Ministry of Finance of Ukraine for inclusion in the draft law on the State Budget of Ukraine for the relevant year.

In fact, as evidenced by the data of the Report on the results of the analysis of the formation, placement and implementation of the state order for training specialists with higher education, approved by the decision of the Accounting Chamber of August 11, 2015 No. 1-5, the process of forming state procurement is reduced to the generalization of the proposals received, and the formation of the order is carried out only on the basis of data from educational institutions on the volume of their training in previous years without taking into account the needs of the labor market, without studying the needs of the public sector of the national economy, data from the employment service.

Within three months from the date of entry into force of the Law of Ukraine "On the State Budget of Ukraine" for the relevant year, submits to the Cabinet of Ministers of Ukraine for approval a decision on approval of state procurement.

Ministry of Finance of Ukraine - includes consolidated volumes of state procurement in the Law of Ukraine "On the State Budget of Ukraine" for the relevant year.

The Cabinet of Ministers of Ukraine approves a resolution on the number of state-procured places for the relevant year and, upon submission of the Ministry of Economic Affairs, makes appropriate adjustments to it during the year.

The Ministry of Education and Science of Ukraine, taking into account the medium-term forecast of the need for specialists and workers in the labor market, communicated to the Ministry of Education and Science of Ukraine, and the amount of expenditures of the State Budget of Ukraine, formed according to the actual amounts of state procurement, submits to the Ministry of Economy and the need for training specialists for these purposes, scientific, scientific-pedagogical and working personnel, advanced training and retraining of personnel.

Proposals for the state procurement project are submitted for the next planned year and the following two budget periods in terms of kind and value in accordance with the approved criteria in terms of educational and qualification levels, fields of knowledge and specialties, taking into account the medium-term forecast.

The Ministry of Education and Science places state procurement on a competitive basis upon submission of the central executive body that ensures the formation and implementation of state policy in the field of education.

Currently, according to the data of state financial control measures carried out by the Accounting Chamber of Ukraine and the State Audit Service of Ukraine, the selection of executors of state procurement is carried out formally. That is, in fact, instead of training specialists who have a real need in the labor market, the actual maintenance of educational institutions is carried out.

In this regard, it is proposed that the *National Agency for Higher Education Quality Assurance* inspect higher, vocational and educational institutions, postgraduate education institutions, scientific institutions of state and communal ownership that have passed a competitive selection and with which a state contract has been concluded for the training of specialists, scientific, scientific-pedagogical and working personnel, advanced training and retraining of personnel by state order, for compliance of their educational activities with the current legislation of Ukraine.

In order to implement the mechanism of public administration of higher education institutions with financial control instruments, it is necessary to improve the relevant regulatory support.

In particular, the following main regulatory legal acts and acts currently need to be supplemented:

- Law of Ukraine "On Education"[12];
- Law of Ukraine "Higher Education" [13];
- Law of Ukraine "On Basic Principles of State Financial Control in Ukraine" [14];
- Law of Ukraine "On the State Budget of Ukraine";
- Law of Ukraine "On Formation and Placement of State Procurement for Training of Specialists, Scientific, Scientific-Pedagogical and Working Personnel, Advanced Training and Retraining of Personnel" [15];
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of Licensing Conditions for Conducting Educational Activities" [16];
- Resolution of the Cabinet of Ministers of Ukraine "On approval of the Procedure for the formation of a state order for the training of specialists, scientific, scientific-pedagogical and labor personnel, advanced training and retraining of personnel" [17];
- Provisions on the accreditation of educational programs, according to which higher education applicants are trained [18];
- The procedure for conducting state certification of higher education institutions in terms of their scientific (scientific and technical) activities [19];
- Methodology for evaluating the scientific directions of higher education institutions during the state certification of higher education institutions in terms of their scientific (scientific and technical) activities [20].

In addition, there is currently a need to develop a Methodology for conducting an IT audit of scientific activities of higher education institutions.

In fig. 4 suggested directions for establishing the relationship between the specified normative acts of Ukraine on the issues of public administration of higher education institutions with financial control tools.

In fig. 4 dotted line marks the author's method of conducting an IT audit of the scientific activity of institutions of higher education, which can be used both by employees of the Ministry of Education and Culture during the licensing of institutions of higher education, by National Agency for Higher Education Quality Assurance (NAQA) employees during the accreditation of educational institutions in general and individual educational programs, as well as by the State Audit Service of Ukraine at implementation of financial control over the effective use of budget funds for the training of specialists for the national economy.

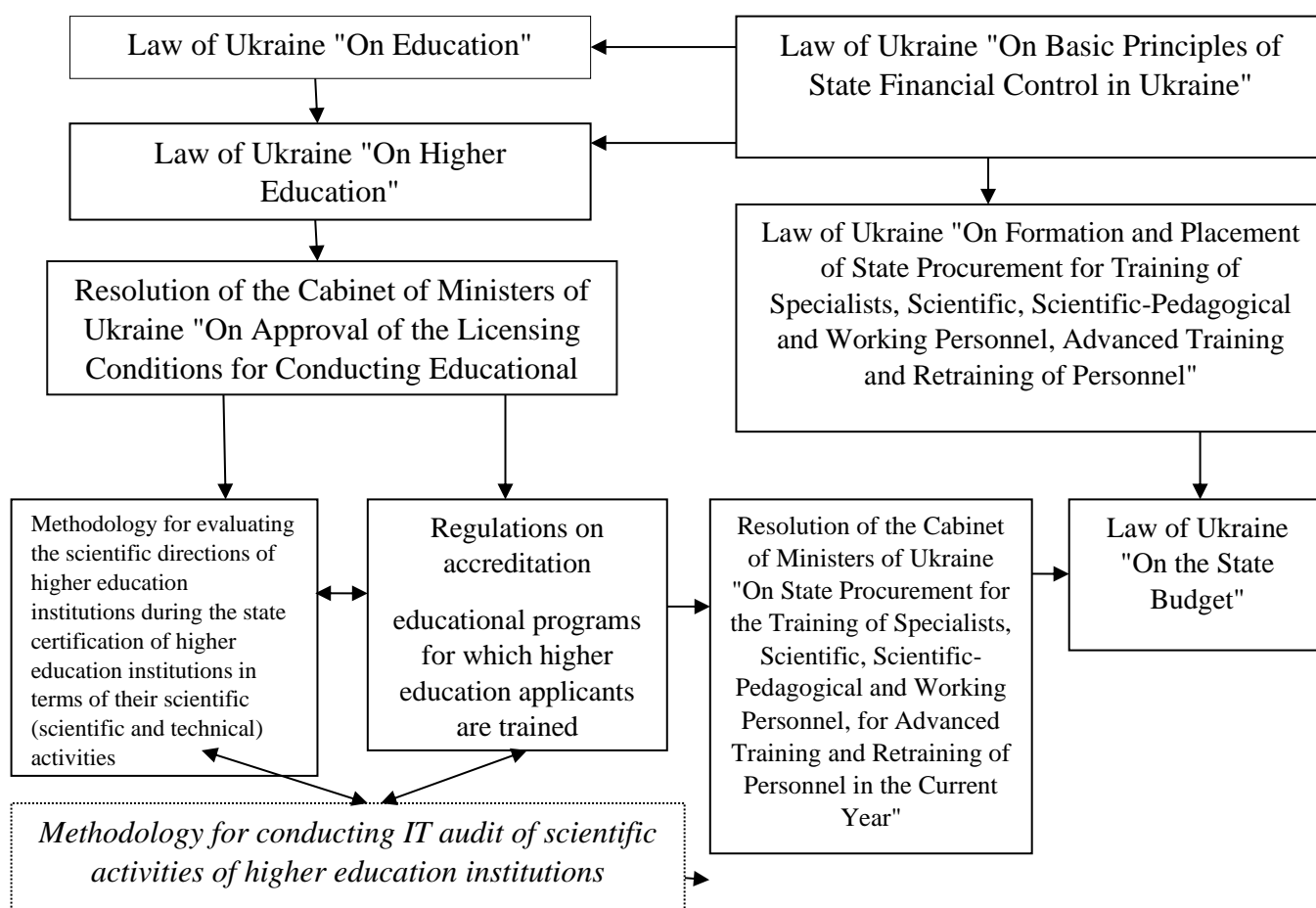


Figure 4. Directions of establishing the relationship between normative acts of Ukraine on public administration of higher education institutions, financial control instruments

Source: developed by authors

In these documents, it is proposed to introduce a number of regulatory norms, namely:

- the list of functions of the Cabinet of Ministers of Ukraine in the field of higher education was supplemented;
- the range of subjects of public administration of higher education institutions has been clarified;
- the list of powers of the State Audit Service of Ukraine regarding the public administration of higher education institutions was supplemented;
- types of state financial control and audit were refined;
- the author's definition of the concept of "IT audit of scientific activities of higher education institutions" is proposed;
- the circle of subjects of IT audit of scientific activities of higher education institutions is established;
- the list and sources of information necessary for the formation and placement of the state order for the training of specialists, scientific, scientific-pedagogical and labor personnel, professional development and retraining of personnel have been clarified;
- the list of information submitted to the Ministry of Education and Culture by institutions of higher education as a self-analysis during state attestation in the part of their scientific (scientific and technical) activity has been improved;
- proposed changes to the criteria by which state certification will be conducted, taking into account the tasks of higher education institutions;
- the list of indicators, according to which the scientific activity of higher education institutions is assessed, has been revised;
- a matrix of the relationship between the results of scientific certification of higher education institutions and the number of budgetary places that will be allocated by a separate direction of training (specialty) and in general has been developed.

Discussion. The author's proposals for making changes and additions to normative legal acts on issues of public administration of institutions of higher education are schematically shown in the table. 1.

The main tools that can be used by the National Agency for Quality Assurance of Higher Education for such verification are the assessment of the results of scientific activity based on self-analysis data and by conducting an IT audit. The results of the inspection will be the basis for the formation of a state order for the training of students by institutions of higher education.

The directions of implementation of the mechanism of public administration of higher education institutions with financial control tools should be:

- systematization of criteria for evaluating the results of scientific activity of institutions of higher education;
- comparing them with the requirements for licensing (accreditation) of educational activities of higher education institutions;
- establishment of criteria for the formation of orders for obtaining budget seats;
- establishment of a relationship between the criteria for evaluating the results of scientific activity and the distribution of budget funds;

- provision of budgetary places only to those institutions of higher education that carry out scientific research at the established level.

Using a hierarchical approach, directions for implementing the mechanism of public administration of higher education institutions with financial control tools are presented in fig. 5 [20].

The proposed directions for the implementation of the mechanism of public administration of higher education institutions with financial control tools will contribute to a more effective distribution and use of budget funds for training students of higher education, as well as increasing the level of scientific research in educational institutions of Ukraine.

Thus, the introduction of a new conceptual approach to the definition of financial control tools will contribute not only to the reform of the evaluation system of higher education institutions, but also to improve the mechanism of public administration of the higher education system as a whole.

Table 1. Main proposals for amendments and additions to regulations on public administration of higher education institutions

Title of legal act	The essence of the proposed changes and additions
- Law of Ukraine "On Education"	<ul style="list-style-type: none"> - the list of functions of the Cabinet of Ministers of Ukraine in the field of higher education has been supplemented - the circle of subjects of state administration of higher education institutions has been clarified
- Law of Ukraine "Higher Education"	
- Law of Ukraine "On Basic Principles of State Financial Control in Ukraine"	<ul style="list-style-type: none"> - the list of powers of the State Audit Service of Ukraine regarding the public administration of higher education institutions has been supplemented; - The types of state financial control and audit have been improved
- Law of Ukraine "On Formation and Placement of State Procurement for Training of Specialists, Scientific, Scientific-Pedagogical and Working Personnel, Advanced Training and Retraining of Personnel"	- The list and sources of information necessary for the formation and placement of the state order for training specialists, scientific, scientific-pedagogical and working personnel, advanced training and retraining of personnel have been clarified
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Licensing Conditions for Conducting Educational Activities"	<ul style="list-style-type: none"> - the author's own definition of the concept of "IT audit of scientific activity of higher education institutions" is proposed; - the circle of subjects of IT audit of scientific activity of higher education institutions has been established
- Regulations on accreditation of educational programs for which higher education applicants are trained	
- Methodology for conducting IT audit of scientific activities of higher education institutions	
- Methodology for evaluating scientific directions of higher education institutions during the state certification of higher education institutions in terms of their scientific (scientific and technical) activities	<ul style="list-style-type: none"> - the list of information submitted to the Ministry of Education and Science by higher education institutions as introspection during the state certification in terms of their scientific (scientific and technical) activities has been improved; - proposed changes to the criteria by which state certification will be conducted, taking into account the tasks of higher education institutions; - The list of indicators used to evaluate the scientific activity of higher education institutions has been improved

Title of legal act	The essence of the proposed changes and additions
- Resolution of the Cabinet of Ministers of Ukraine "On Approval of the Procedure for Forming the State Order for Training Specialists, Scientific, Scientific-Pedagogical and Working Personnel, Advanced Training and Retraining of Personnel"	- a matrix of the relationship between the results of scientific certification of higher education institutions and the number of budget places that will be allocated in a separate direction of training (specialty) and in general has been developed

Source: developed by authors

Conclusions. The article conducted a study, the main results of which were as follows. The article analyzes the main models of financial control over education funding: Anglo-Saxon and continental models. To evaluate the effectiveness of the funds spent by the state on the proposed mechanism of public administration of higher education institutions with financial control tools, which includes: a mechanism for evaluating the scientific activity of higher education institutions; the IT audit mechanism of the grounds for the formation of a state order for the training of students by institutions of higher education; the mechanism of financial control over the distribution of budget funds depending on the results of the scientific activity of the institution of higher education.

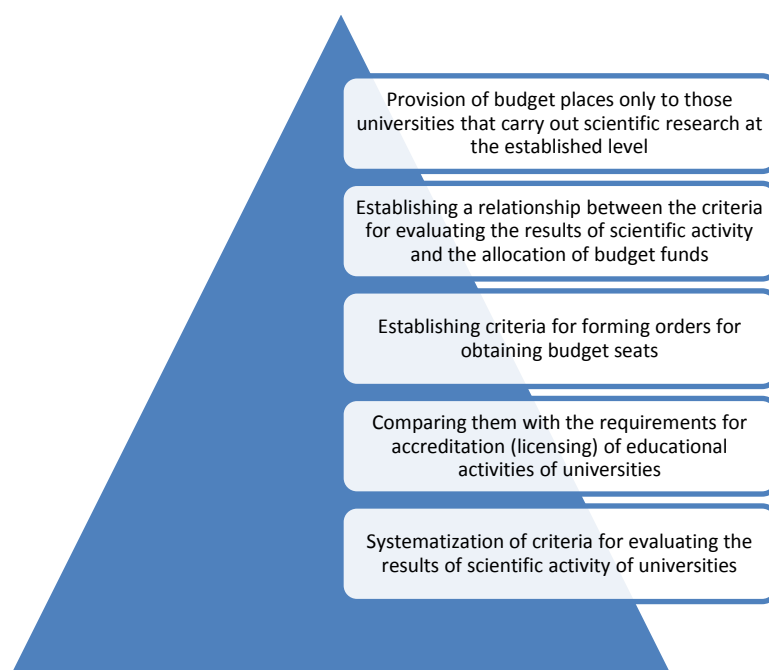


Figure 5. The main directions of implementation of the mechanism of public administration of institutions of higher education with instruments of financial control

Source: developed by authors

A mechanism of public administration of higher education institutions with financial control tools has been developed, which includes such basic elements as: purpose, tasks, objects and subjects, main structural components. The main directions of interaction between subjects of the mechanism of public administration of higher education institutions with financial control tools have been established. Directions for

establishing the relationship between normative acts of Ukraine on issues of public administration of institutions of higher education and instruments of financial control have been developed.

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