

ABSTRACT

Oleksandr Vysotskyi. Communicative dimension of the legitimacy of international law. The purpose of the article is to determine the communicative features of the formation of the legitimacy of international law. The legitimacy of international law is largely determined by the communicative process in which subjects of international law participate. Such communicative and linguistic phenomena as argumentation, nominalization, narrative, qualification of actions, interpretation and reinterpretation of the situation play a key role in the process of appealing and making decisions on legitimacy in international law. The communication process, which allows all subjects of international law to freely implement strategies to challenge the legitimacy of international norms and decisions, acts as a legitimation, a dynamic dimension of legitimacy. It provides sufficient grounds for establishing a choice between different norms and their application in accordance with the decisions of the international interpretative community. The legitimation process is capable of changing the conduct of international actors and forcing them to make normative-based decisions, even if the agreed or accepted option is not necessarily the best outcome for those actors whom the international legitimizing audience supports. This proves that the problem of legitimacy of the norms of international law should be posed not as a problem of their compliance with moral principles, laws of logic, spirit or formal requirements of law, but as a problem of communicative and procedural justification of their choice and application. There is no universal legitimacy for all situations and times. Legitimacy is always situational and is the result of an argumentative discourse of stakeholders who can demonstrate a sufficient degree of adequate understanding of the situation and a high degree of good faith in compliance with the fundamental principles of law, suggest its acceptable wording for the interpretative community deciding on appropriate enforcement.

Keywords: *legitimacy, legitimation, international law, communication, states, appeals, norms, international community.*

UDC 351.72:347.73(477)

DOI: 10.31733/2078-3566-2021-6-92-99



Emilia DMYTRENKO[©]

Doctor of Law, Professor

*(State in Kyiv National Economic University
named after Vadym Hetman, Kyiv, Ukraine)*

**PECULIARITIES OF LEGAL SUPPORT
OF NATIONAL FINANCIAL SECURITY
IN THE CONTEXT OF TODAY CHALLENGES**

Емілія Дмитренко. ОСОБЛИВОСТІ ПРАВОВОГО ЗАБЕЗПЕЧЕННЯ ФІНАНСОВОЇ БЕЗПЕКИ ДЕРЖАВИ В КОНТЕКСТІ ВИКЛИКІВ СЬОГОДЕННЯ. Розглянуто механізм правового забезпечення фінансової безпеки держави в сучасних умовах. Проаналізовано окремі нормативно-правові акти, в яких визначено такий механізм.

З'ясовано сутність механізму правового забезпечення безпеки банківської системи України. Зосереджено увагу на його особливостях у період фінансової кризи (2014-2016 рр.).

Визначено зміст діяльності Національного банку України у сфері забезпечення фінансової безпеки, зокрема здійснення банківського регулювання та нагляду, фінансового моніторингу, застосування заходів впливу за порушення банківського законодавства.

Акцентовано увагу на окремих проблемах, які негативно впливають на забезпечення фінансової стабільності банківської системи України. З'ясовано, що у діяльності окремих банків мають місце порушення банківського законодавства, які можуть поставити під загрозу безпеку банківської системи України або завдати шкоди належному веденню банківської діяльності.

З метою приведення банківського законодавства України до вимог документів Європейського Союзу запропоновано визначити поняття «банківське регулювання», «банківський нагляд», «фінансовий моніторинг». Також потребують уточнення наглядові повноваження Національного банку України і банків, а також ознаки, за яких банк можна вважати фінансово нестійким.

Доведено доцільність запровадження низки регуляторних та наглядових послаблень в умовах поширення коронавірусу з метою збереження довіри до банківської системи та забезпечення фінансової стабільності. На виконання вимог Угоди про асоціацію між Україною та

© E. Dmytrenko, 2021

ORCID iD: <http://orcid.org/0000-0002-1469-052X>

emiliadmitrenko@gmail.com

Європейським Союзом та з метою забезпечення фінансової безпеки запропоновано удосконалити механізм ризик-орієнтованого нагляду за фінансовими установами, захисту прав споживачів фінансових послуг, виведення неплатоспроможних фінансових установ з ринку.

Ключові слова: *фінансова безпека держави, механізм правового забезпечення фінансової безпеки держави, загрози фінансовій безпеці держави, безпека банківської системи України, Національний банк України, фінансова криза.*

Relevance of the study. An important direction of national financial policy and local governments is to ensure financial security as a separate type of national security. The essence of national security in accordance with the Law of Ukraine «On National Security of Ukraine» dated June 21, 2018 № 2469-VIII and scientific sources is: protection from real and potential threats to such fundamental national interests of Ukraine as state sovereignty, territorial integrity, democratic and constitutional order, according to Articles 1 and 3 [11]; the state of protection of vital interests of the individual, society and the state from internal and external threats [2, p. 13].

In the conditions of modern globalization challenges, the priorities of Ukraine's national interests and ensuring national security acquire a new meaning or radically change. The latter are defined in the National Security Strategy of Ukraine, approved by the Decree of the President of Ukraine № 392/2020 dated September 14, 2020. Among them: defense of independence and state sovereignty; restoration of territorial integrity within the internationally recognized state border of Ukraine; social development, primarily the development of human capital; protection of the rights, freedoms and legitimate interests of the citizens of Ukraine; European and Euro-Atlantic integration. At the same time, the Strategy stipulates that the acquisition of full membership of Ukraine in the European Union and in the North Atlantic Treaty Organization is a strategic course of the state. To implement this in the state must ensure the full implementation and further adaptation of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand, according to paragraphs 5, 25 and 34 [13].

Relevant are the provisions of the Strategy, which identify a list of factors that hinder national security. In particular, it is inconsistency and incompleteness of reforms and corruption, slow development of market relations in key areas, imperfection and fragmentation of legislation, etc. In addition, the document contains a list of tasks that need to be addressed to reduce the negative impact of these and other factors. Among them: the development of market competition; ensuring the de-shadowing of economic relations; protection of property rights; ensuring the sustainable functioning of the financial system, consistency of monetary policy and increasing confidence in national financial institutions [13, p. 53].

In view of the above, it can be stated that certain provisions of the Strategy relate to the sphere of public financial activity. In other words, under modern conditions, there are many factors that affect the state of protection and financial interests of the individual, society, state or its individual administrative-territorial units and their protection from various threats. In our opinion, this is the essence of financial security activities. This activity has features in the period of financial crisis, other modern negative processes that occur in the financial system of the state. As these issues have not become the subject of scientific research, their coverage is relevant.

Recent publications review. The issue of financial security to some extent revealed by scientists such as O. Briginets, O. Hetmanets, L. Kasyanenko, V. Lipkan, I. Romanyuk and others. However, these and other scholars have not considered in detail the problems of the mechanism of legal provision of financial security in the context of such modern challenges as the financial crisis, the spread of the pandemic and so on. That is why, taking into account current and future challenges, it is advisable to conduct further research aimed at rethinking and improving certain aspects of the mechanism of legal support of financial security of the state.

The research paper's objective is to analyze some elements of the mechanism of legal support of financial security in general and separately the security of the banking system of Ukraine in the context of today's challenges, problems in this area and identify ways to solve them.

Discussion. First of all, it should be noted that the state of financial security is assessed by a system of its various indicators. Among them: the total amount of revenues and expenditures of budgets, the amount of external and internal debt, consolidated budget indicators, financial market indicators, etc. Thus, according to the information of the Ministry of Finance of Ukraine, as of September 31, 2021, the volume of Ukraine's external debt amounted to 1,413,433.9 million UAH, and the internal debt amounted to 1,032,086.4 million UAH. These indicators indicate that in the period of exacerbation of global crises of financial and epidemiological nature, the state in order to ensure the stability of the financial system and

perform its functions is forced to make not only internal but also external borrowing.

It should be noted that the amount of external public debt in recent years is close to acceptable, and during the financial crisis (2014-2016) reached 70-80 % of GDP [1]. This did not meet the requirements of the Budget Code of Ukraine regarding the maximum amount of public debt (60 %) and posed a threat to the financial security of Ukraine.

The above is convincing in terms of financial security and its threats. The latter are nothing but negative factors (conditions) that complicate (make impossible) the realization of important financial interests of the interests of the individual, society, state and create a danger to the financial independence of Ukraine [2, p. 24].

Since the impact of threats to financial security on the financial system of Ukraine is most felt during financial crises, we consider it necessary to analyze this issue on the example of the banking system of Ukraine. The legal basis for the functioning of the banking system of Ukraine is primarily the Law of Ukraine «On Banks and Banking» dated 7 December, 2000, № 2121-III. Taking into account Article 4 of this Law, the banking system of Ukraine consists of the National Bank of Ukraine and other banks, as well as branches of foreign banks, established and operating in Ukraine in accordance with the law [6, Art. 4]. The analysis of this Law gives grounds to believe that these entities implement the function of ensuring the security of the banking system of Ukraine, as they carry out activities to protect it and protect it from various threats. In this context, the National Bank of Ukraine, other banks, branches of foreign banks, of course, are the subjects of security in the analyzed area.

Implementing the function of ensuring the security of the banking system, the National Bank of Ukraine, other banks, branches of foreign banks perform a number of tasks. First of all, these are: prompt response to identified changes and negative trends in the banking system; timely detection of threats to the security of the banking system of Ukraine and timely taking measures to neutralize them; prevention of illegal encroachment on the banking system of Ukraine and mitigation of harmful consequences in case of their commission.

Of course, the state of security of the banking system of Ukraine is determined by certain indicators, some of which are contained in the annual reports of the National Bank of Ukraine. Thus, the Report for 2020 addresses some of them: during 2020, two banks were declared insolvent due to non-compliance with capital requirements; at the end of 2020, 73 solvent banks operated on the market; the share of state-owned banks in net assets for the year decreased in favor of private – up to 52.6 %; the largest 20 banks account for more than 90 % of all net assets of the banking sector [4].

If we talk about security threats to the banking system of Ukraine, they are, among others, the following: legalization (laundering) of funds obtained by criminal means; weak protection of banking telecommunications from unauthorized introduction of fictitious and counterfeit banking documents; non-bank money circulation; untimely and ineffective measures to protect the interests of bank depositors; weak role of the National Bank of Ukraine in supervising the activities of banks in order to prevent their insolvency and bankruptcy, etc. [3, p. 58-59]. It should also be noted that the insufficient amount of non-cash payments in cash, the use of cash by business entities to avoid taxation, the problem of payments using plastic cards [2, p. 40] are also those factors that do not contribute to guaranteeing the security of the banking system of Ukraine.

The negative impact of these and other threats was especially noticeable for the banking system of Ukraine during the most difficult period of the financial crisis (2014-2015). In particular, at this time there was an outflow of funds attracted by banks, primarily deposits of individuals (their volume in 2014 decreased by 126 billion UAH, or 29 % (in national currency – by 53 billion UAH (on 21 %), in foreign currency – by 9 billion USD (by 40 %)). In addition, there was an increase in the share of overdue debt on loans in the total loan portfolio (as of 01.01.2014, this figure is generally for banking system was equal to 7.7 %, on 01.01.2015 – 13.5 %, on 01.11.2015 – 20.4 %) [5]. Also during the analyzed period for violation of banking legislation were withdrawn from the market banks «Veles», «KSG Bank», «Mikhailovsky» and others. According to the National Bank of Ukraine, transactions made by the management of «Mikhailovsky» in just one day (May 20, 2016) amounted to about 1 billion UAH and led to an increase in the burden on the Deposit Guarantee Fund of Ukraine to 2.6 billion UAH [14].

Given the existing threats, an important role in their minimization and neutralization belongs to the mechanism of legal security of the banking system of Ukraine, the organizational framework for which is defined in the Law of Ukraine «On Banks and Banking» and the Law of Ukraine «On the National Bank of Ukraine» dated May 20, 1999,

№ 679-XIV. Such a mechanism involves the NBU's activities aimed at promoting financial stability, including the stability of the banking system and analysis of the state of the financial system in relation to financial stability [12, Arts. 6–7].

In addition, in order to ensure the security and financial stability of the banking system, protect the interests of depositors and creditors, the National Bank of Ukraine carries out banking regulation and constant supervision of compliance with banking legislation, regulations of the National Bank of Ukraine and economic standards. It should be noted that the National Bank of Ukraine also conducts inspections to determine the level of security and stability of the bank's operations, the reliability of the bank's reporting and compliance with banking legislation. At the same time, the bank is obliged to ensure annual audits of financial statements, consolidated financial statements and other information on the financial and economic activities of the bank by an audit firm in accordance with the laws of Ukraine [6, Arts. 70–71], etc.

An important lever to ensure the security of the banking system is the internal audit service of the bank (banking group) – its structural unit, which operates in accordance with the Law of Ukraine «On Banks and Banking», «Resolution of the Board of the National Bank of Ukraine. Banks of Ukraine» dated May 10, 2016, № 311. Based on the results of a comprehensive risk assessment, the Bank's internal audit department performs audits. In particular, this unit examines: the processes that ensure the operation of the bank, including those that carry potential risk; availability, efficiency and adequacy of risk management systems, internal control, bank management processes, compliance of these systems and processes with the types and volumes of bank operations, including the prevention of the use of the banking system for money laundering (terrorist financing). Among his other powers – checking the correctness and accuracy of accounting, information, financial and other reporting, their completeness and timeliness; carrying out an independent assessment of the control system implemented by the bank's management, in particular regarding: compliance by the bank's managers and employees with the provision of banking and other financial services, the requirements of the legislation of Ukraine and the bank's internal regulations; inspection of financial and economic activities of the bank, etc. An important function of this unit of the bank is to identify and analyze the facts of violations by bank employees of their requirements, as well as checking the timeliness of elimination of deficiencies identified during the supervision of the bank [10].

We will focus on such an element of the mechanism of ensuring the security of the banking system as banking supervision. Its separate type is off-site banking supervision, the procedure for which is determined by the Resolution of the Board of the National Bank of Ukraine «On approval of the Regulations on the National Bank of Ukraine on-site banking supervision» dated December 6, 2018, № 135.

In accordance with this Regulation, which is developed taking into account the Core Principles of Effective Banking Supervision and the recommendations of the Basel Committee on Banking Supervision, on-site banking supervision is carried out by authorized divisions of the National Bank of Ukraine. The forms of its implementation are as follows: current monitoring of the bank's financial condition and indicators of the banking group, taking into account the risk-oriented approach; assessment of the bank on the basis of assessment of the level of risks and quality of risk management. These forms are used to promote the financial stability and stability of the banking system of Ukraine and protect the interests of depositors and other creditors of banks.

The peculiarity of the National Bank of Ukraine in this context is the implementation of a comprehensive and objective analysis of all available information on the activities of the bank. This activity involves the following main areas:

- assessment of the level of risks and quality of risk management inherent in the bank's activities;
- ensuring control over the bank's compliance with the requirements and restrictions on its activities established by the National Bank of Ukraine;
- ensuring timely response to established violations of the requirements of banking legislation, regulations of the National Bank of Ukraine, which pose a threat to the interests of depositors or other creditors of the bank;
- introduction of a special regime of control over the bank's activities and appointment of a bank curator [9].

Another area of off-site banking supervision is the application of a proportionate approach during its implementation. This approach, in line with the recommendations of the Basel Committee

on Banking Supervision, focuses on larger, more complex or more risky banks.

In the activities of some banks as practice shows, there may be violations of banking legislation, especially during the financial crisis. Given that such violations may jeopardize the security of funds entrusted to such banks, or harm the proper conduct of banking activities, to avoid them or overcome the undesirable consequences of the National Bank of Ukraine in conducting banking supervision has the right to require such banks and their violations management.

In addition, if the National Bank of Ukraine during banking supervision has concluded that the bank's risk management system is inefficient and (or) inadequate, the bank is obliged to immediately develop and submit for approval to the NBU an appropriate action plan, aimed at eliminating these shortcomings.

It is necessary to note such a feature of banking supervision as the possibility of applying by the National Bank of Ukraine a number of measures of influence for violations of banking legislation. Their list contains Article 71 of the Law of Ukraine «On Banks and Banking» [5]. A detailed analysis of this article has shown the diversity of such measures. First of all, their difference, in our opinion, is not the use or application of coercion. Thus, the first group of measures of influence can include: written warning; concluding a written agreement with the bank; convening a general meeting of participants, the supervisory board of the bank, the board (board of directors) of the bank to adopt a program of financial recovery or a plan of reorganization of the bank. In our opinion, these measures are essentially precautionary, because they are applied when the shortcomings in the activities of the bank do not threaten the interests of depositors and creditors.

As for the other group of measures, they provide for the use of coercion and, therefore, are coercive measures. These include: suspension of dividend payments; suspension or termination of certain types of operations performed by the bank, including operations with persons related to the bank; ban on providing blank loans; imposition of fines on the bank and owners of significant participation in the bank; temporary, until the violation is eliminated, prohibition of the owner's use of substantial participation in the bank of the right to vote (temporary prohibition of the right to vote); temporary, until the violation is eliminated, the bank official is removed from office; assigning the bank to the category of problematic or insolvent; revocation of the banking license and liquidation of the bank, etc. Thus, according to the results of off-site banking supervision during 2020, the National Bank of Ukraine applied 44 measures of influence to banks, namely: written warning – 21; restriction of certain types of operations carried out by banks – 12; imposition of a fine on the bank – 4; conclusion of a written agreement – 1; assignment of banks to the category of insolvent – 2; revocation of the banking license and liquidation of the bank – 1 [4].

A separate and extremely important area of activity of the National Bank of Ukraine in the field of financial security is participation in the withdrawal of banks from the market. With the adoption of the Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine to Improve Certain Mechanisms for Banking Regulation», the world experience of regulating the banking system was taken into account to strengthen its resilience to crises and restore financial stability in the event of their occurrence. This allowed eliminating some gaps in the legislation, in particular those that were identified during the cleanup of the banking system in 2014-2016. In particular, the provisions of the analyzed Law guarantee the inevitability of withdrawal of the bank from the market and change the procedure for appealing the decisions of the National Bank of Ukraine, because the cancellation of such a decision does not terminate the insolvency or liquidation of the bank. In addition, this Law provides the National Bank of Ukraine with the opportunity to withdraw banks from the market with the least losses due to early detection of problems in banks [7]. With the adoption of this Law and other regulations in the field of banking, a number of aspects of the adaptation of Ukrainian legislation to the legislation of the European Union have been resolved. However, many issues in this area remain unresolved. Thus, taking into account the documents of the European Union need to clarify and unify in the Law of Ukraine «On the National Bank of Ukraine» such basic concepts as «banking regulation», «banking supervision» in the context of defining their essence as activities to identify and analyze systemic risks in the banking system and the application of measures to prevent them. In this regard, it is also advisable to clarify the supervisory powers of the National Bank of Ukraine and banks, the implementation of which should be aimed at ensuring the security and reliability of the banking system of Ukraine.

Another form of banking supervision can be considered financial monitoring, the content of which is a set of measures taken by the subjects of financial monitoring in the field

of prevention and counteraction, including public financial monitoring and primary financial monitoring [8, Art. 1]. However, in our opinion, in clarifying the essence of the concept of «financial monitoring» should take into account the risk-oriented approach and define it – as the activities of authorized entities to identify, assess risks in this area and manage them to minimize such risks. With this in mind, we believe that the legislation should clarify the purpose and objectives of financial monitoring, its types.

As for the performance of the National Bank of Ukraine in this area, according to the Annual Report for 2020, the regulator sent to the Security Service of Ukraine information regarding 42 banks and eight non-bank financial institutions on the results of audits on financial monitoring sent 39 letters with information about suspicious financial transactions of bank customers totaling more than 67.5 billion UAH, 68.1 million USD, 11.8 million EUR. Also during 2020, three reports of suspicious financial transactions were sent to the National Anti-Corruption Bureau of Ukraine. The information provided to law enforcement agencies concerned the conduct of financial transactions by bank customers, the nature or consequences of which suggest that they may be related to the withdrawal of capital, legalization of criminal proceeds, conversion (transfer) of non-cash funds, fictitious business, tax avoidance etc. [4].

Separately, we note that in a financial crisis, circumstances may arise that cause an unstable financial condition of the banking system. Therefore, ensuring the stability of the banking system of Ukraine in such conditions is the most important task of the National Bank of Ukraine. Until recently, this issue was unresolved, which forced the legislator to include in the Law of Ukraine «On the National Bank of Ukraine» a separate article 71 «Features of ensuring the stability of the banking system». As a result, the National Bank of Ukraine was given the right to determine the temporary features of regulation and supervision of banks, the state of which is financially unstable. To such banks, the National Bank of Ukraine may take measures to maintain the liquidity of banks, the application of economic standards. This mechanism may also provide for restrictions or prohibitions on the issuance of funds from current and deposit (deposit) accounts of individuals and legal entities, foreign exchange transactions in Ukraine. In this regard, the law should clarify the features by which the bank can be considered financially unstable.

Recently, the banking system of Ukraine has been operating in the face of serious challenges related to the rapid spread of the coronavirus and the introduction of significant restrictions in the world and in Ukraine to contain the pandemic. In order to maintain the stability of the banking system of Ukraine, the National Bank of Ukraine in 2020-2021 took a number of measures, primarily aimed at introducing regulatory and supervisory easing. In particular, the requirements for credit risk assessment have been relaxed, the deadlines for submitting and publishing financial statements have been changed, and all types of on-site inspections and stress testing of banks have been suspended. In the context of the pandemic and quarantine restrictions, the National Bank of Ukraine paid considerable attention to the digitalization of the banking system and introduced various models of remote identification and verification of customers. In particular, services using the NBU BankID system at the end of 2020 were available to 94 % of payment card users on the market [4]. The implementation by the National Bank of Ukraine of these and other anti-crisis measures has allowed maintaining the liquidity of the banking system at a high level, as well as confidence in the banking system and financial stability.

In order to further strengthen the stability of the financial system as a whole and the banking system in particular, it is necessary to focus efforts on meeting the requirements of the Association Agreement between Ukraine and the European Union. This includes, among other things, amending the legislation in order to introduce risk-oriented supervision of financial institutions, protect the rights of consumers of financial services, and improve the deposit guarantee system and the procedure for removing insolvent financial institutions from the market.

Conclusions. Thus, analyzing the individual elements of the mechanism of legal support of financial security in general and separately the security of the banking system of Ukraine in the context of today's challenges, we can draw the following conclusions:

– the state of financial security is assessed by various indicators and related threats, the negative impact of which is most felt in the context of individual globalization challenges (financial crisis, pandemic, etc.);

– a significant role in minimizing and neutralizing threats to financial security is played by the legal mechanism for its provision, which provides for activities aimed at ensuring the stability of the financial system of Ukraine and the banking system and its integral component;

– in order to ensure security and financial stability of the banking system, protect the interests of depositors and creditors, the National Bank of Ukraine: carries out banking regulation and constant supervision of banking legislation, taking into account the Basic Principles of Effective Banking Supervision and recommendations of the Basel Committee on Banking Supervision; determines the temporary features of banking regulation and supervision; has the right to make decisions on withdrawal of banks from the market and on the application of non-coercive (precautionary) and coercive measures for violation of banking legislation;

– in order to bring the banking legislation of Ukraine to the requirements of European Union documents, it is advisable to clarify and unify the concepts of «banking regulation», «banking supervision», «financial monitoring» and supervisory powers of the National Bank of Ukraine and banks, as well as consider financially unstable;

– in the context of the spread of coronavirus in order to maintain confidence in the banking system and ensure financial stability, it is advisable to introduce a number of regulatory and supervisory relaxations (mitigation of credit risk assessment requirements, change of deadlines for submission and publication of financial statements), introduction of remote identification and verification of clients;

– in order to comply with the requirements of the Association Agreement between Ukraine and the European Union and in order to ensure financial security, it is proposed to improve the mechanism of risk-oriented supervision of financial institutions, protection of consumers' rights, withdrawal of insolvent financial institutions.

The provisions formulated in the article can serve as separate areas of research on legal security of financial security, security of the banking system of Ukraine, organizational and legal mechanism of financial security and the role of the National Bank of Ukraine.

References

1. Про національну безпеку України: Закон України від 21.06.2018. URL : <https://zakon.rada.gov.ua/laws/show/2469-19#Text>.
2. Дмитренко Е. С. Юридична відповідальність суб'єктів фінансового права у механізмі правового забезпечення фінансової безпеки України: монографія. Київ: Юрінком Інтер, 2009. 591 с.
3. Стратегія національної безпеки України: Затверджена Указом Президента України від 14.09.2020 р. № 392/2020. URL : <https://www.president.gov.ua/documents/3922020-35037>.
4. Державний борг України. URL: <https://index.minfin.com.ua/finance/debtgov/>.
5. Про банки і банківську діяльність: Закон України від 07.12.2000. URL : <https://zakon.rada.gov.ua/laws/show/2121-14#Text>.
6. Національний банк України. Звіт 2020. URL : https://bank.gov.ua/admin_uploads/article/annual_report_2020.pdf?v=4.
7. Дмитренко Е. С. Загрози фінансовій безпеці держави: юридичний зміст та правовий аналіз. *Вісник прокуратури*. 2003. № 1. С. 57-59.
8. Основні загрози безпеці банківської системи України та шляхи їх подолання. Аналітична записка Національного інституту стратегічних досліджень. URL: <http://www.niss.gov.ua/articles/2125/>
9. Тимчасова адміністрація введена в банк «Михайлівський» на 1 місяць. URL : <https://finbalance.com.ua/news/timchasova-administratsiya-vvedena-v-bank-mikhaylivskiy-na-1-misyats>.
10. Про Національний банк України: Закон України від 20.05.1999. URL : <https://zakon.rada.gov.ua/laws/show/679-14#Text>.
11. Про затвердження Положення про організацію внутрішнього аудиту в банках України: Постанова Правління Національного банку України від 10.05.2016 № 311. URL : <https://zakon.rada.gov.ua/laws/show/v0311500-16#Text>
12. Про затвердження Положення про здійснення Національним банком України безвізного банківського нагляду: Постанова Правління Національного банку України від 06.12.2018 № 135. URL : <https://zakon.rada.gov.ua/laws/show/v0135500-18#Text>.
13. Про внесення змін до деяких законодавчих актів України щодо удосконалення механізмів регулювання банківської діяльності: Закон України від 13.05.2020. URL : <https://zakon.rada.gov.ua/laws/show/590-20#Text>.
14. Про запобігання та протидію легалізації (відмиванню) доходів, одержаних злочинним шляхом, фінансуванню тероризму та фінансуванню розповсюдження зброї масового знищення: Закон України від 06.12.2019. URL : <https://zakon.rada.gov.ua/laws/show/361-20#Text>.

Submitted 10.12.2021

1. Pro natsionalnu bezpeku Ukrayiny [On the national security of Ukraine]: Zakon Ukrayiny vid 21.06.2018. URL : <https://zakon.rada.gov.ua/laws/show/2469-19#Text>. [in Ukr.].

2. Dmytrenko, E. S. (2009). Yurydychna vidpovidalnist subyektiv finansovoho prava u mekhanizmi pravovoho zabezpechennya finansovoyi bezpeky Ukrayiny [Legal responsibility of subjects of financial law in the mechanism of legal support of financial security of Ukraine]: monograph. Kyiv:

Yurinkom Inter, 591 p. [in Ukr.].

3. Stratehiya natsionalnoyi bezpeky Ukrayiny [National Security Strategy of Ukraine] : Zatverdzhena Ukazom Prezydenta Ukrayiny vid 14.09.2020 № 392/2020. URL : <https://www.president.gov.ua/documents/3922020-35037>. [in Ukr.].

4. Derzhavnyi borh Ukrainy [Public debt of Ukraine]. URL : <https://index.minfin.com.ua/finance/debtgov/>. [in Ukr.].

5. Pro banky i bankivsku diyalnist [On banks and banking activities]: Zakon Ukrainy vid 07.12.2000. URL : <https://zakon.rada.gov.ua/laws/show/2121-14#Text>. [in Ukr.].

6. Natsionalnyi bank Ukrainy. Zvit 2020 [National Bank of Ukraine. Report 2020]. URL : https://bank.gov.ua/admin_uploads/article/annual_report_2020.pdf?v=4. [in Ukr.].

7. Dmytrenko, E. S. (2003). Zahrozy finansovii bezpetsi derzhavy: yurydychnyi zmist ta pravovyi analiz [Threats to the financial security of the state: legal content and legal analysis *Visnyk prokuratury*. no 1. pp. 57-59. [in Ukr.].

8. Osnovni zahrozy bezpetsi bankivskoyi systemy Ukrainy ta shliakhy yikh podolannia [The main threats to the security of the banking system of Ukraine and ways to overcome them]. Analitichna zapyska Natsionalnoho instytutu stratehichnykh doslidzhen. URL : <http://www.niss.gov.ua/articles/2125/>. [in Ukr.].

9. Tymchasova administratsiya vvedena v bank «Mykhaylivskiy» na 1 misyats [The interim administration was introduced in the bank «Mikhaïlivskyy» for 1 month]. URL: <https://finbalance.com.ua/news/timchasova-administratsiya-vvedena-v-bank-mikhaïlivskiy-na-1-misyats>. [in Ukr.].

10. Pro Natsionalnyy bank Ukrayiny [On the National Bank of Ukraine] : Zakon Ukrainy vid 20.05.1999. URL : <https://zakon.rada.gov.ua/laws/show/679-14#Text>. [in Ukr.].

11. Pro zatverdzhennya Polozhennya pro orhanizatsiyu vnutrishnyoho audytu v bankakh Ukrainy [On approval of the Regulation on the organization of internal audit in banks of Ukraine] : POSTANOVA Pravlinnya Natsionalnoho banku Ukrayiny vid 10.05.2016 № 311. URL : <https://zakon.rada.gov.ua/laws/show/v0311500-16#Text>. [in Ukr.].

12. Pro zatverdzhennia Polozhennya pro zdiysnennya Natsionalnym bankom Ukrayiny bezvyiznoho bankivskoho nahlyadu [On approval of the Regulation on the implementation of off-site banking supervision by the National Bank of Ukraine] : Postanova Pravlinnya Natsionalnoho banku Ukrayiny vid 06.12.2018 № 135. URL : <https://zakon.rada.gov.ua/laws/show/v0135500-18#Text>. [in Ukr.].

13. Pro vnesennya zmin do deyakykh zakonodavchykh aktiv Ukrainy shchodo udoskonalennya mekhanizmiv rehulyuvannya bankivskoyi diyalnosti [On Amendments to Certain Legislative Acts of Ukraine Concerning the Improvement of Banking Regulation Mechanisms]: Zakon Ukrayiny vid 13.05.2020 № 590-IX. URL: <https://zakon.rada.gov.ua/laws/show/590-20#Text>. [in Ukr.].

14. Pro zapobihannya ta protydiyuh lehalizatsiyi (vidmyvanniu) dokhodiv, oderzhanykh zlochynnym shlyakhom, finansuvanniu teroryzmu ta finansuvanniu rozpovsiudzhennya zbroyi masovoho znyshchennya [On prevention and counteraction to legalization (laundering) of proceeds from crime, financing of terrorism and financing of proliferation of weapons of mass destruction]: Zakon Ukrayiny vid 06.12.2019. URL : <https://zakon.rada.gov.ua/laws/show/361-20#Text>. [in Ukr.].

ABSTRACT

The mechanism of legal provision of financial security of the state in modern conditions is considered. Some normative-legal acts in which such mechanism is defined are analyzed.

The essence of the mechanism of legal security of the banking system of Ukraine and the activities of the National Bank of Ukraine in this area is clarified and attention is focused on certain issues. It is proposed to clarify the supervisory powers of the National Bank of Ukraine and banks, to improve the mechanism of risk-oriented banking supervision, protection of the rights of consumers of financial services, withdrawal of insolvent financial institutions from the market.

Keywords: *national financial security, mechanism of legal provision of national financial security, threats to national financial security, security of the banking system of Ukraine, National Bank of Ukraine, financial crisis.*