Right of the State Audit Service of Ukraine to Administrative Mutual Assistance

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The purpose of this article is to conduct a comprehensive analysis of the right of the State Audit Service of Ukraine to engage qualified specialists to carry out public financial control measures in systemic connection with the institution of administrative mutual assistance provided for by the Law of Ukraine "On Administrative Procedure." In order to achieve this purpose, general scientific and special scientific methods were applied. The article outlines problems related to the implementation of Art. 10 of the Law of Ukraine "On the Basic Principles of Public Financial Control in Ukraine" under martial law, staff shortages and declining motivation among state auditors. The article analyzes current legislation and the practice of engaging qualified specialists by the State Audit Service on a contractual basis and upon written requests. It has been found that, in its activities, the State Audit Service applies the practice of a simplified understanding of the contractual basis, which is based on non-recognition of the requirements of public procurement legislation and the principles of administrative procedure. Based on an analysis of the relevant governmental procedures, departmental acts of the Ministry of Finance of Ukraine and case law, the internal inconsistency of the specialized legislation on the engagement of specialists, in particular with regard to their status and powers, has been demonstrated. The article examines the statutory construction of the right of an administrative body to administrative assistance, identifies the conditions for exercising this right and the possibilities

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of its application in the activities of public financial control bodies. The article substantiates the need for a legislative distinction between the mechanisms by which the State Audit Service, under conditions limiting its staffing capacity, engages qualified specialists from executive authorities and state funds, by exercising the right to administrative mutual assistance in compliance with the principle of efficiency of administrative procedure, and qualified specialists from enterprises, institutions and organizations, exclusively on a contractual basis in accordance with public procurement legislation. The article emphasizes the need to introduce safeguards against abuse by the State Audit Service of the right to administrative mutual assistance, in order to preserve its institutional capacity to perform the tasks and functions assigned to.

***Keywords**: public financial control; State Audit Service; engagement of qualified specialists; forensic examination; forensic science institution; contractual basis; public procurement; administrative mutual assistance.*

Research Problem Formulation

At the current stage of development of financial control, the Cabinet of Ministers of Ukraine (hereinafter referred to as the *CabMin*), in the Concept for the Implementation of State Policy in the Field of Reforming the Public Financial Control System until 2020 (hereinafter referred to as the *Concept*), recognized the State Audit Service of Ukraine as an effective tool "that has the basis for ensuring high-quality control over the legality and efficiency (effectiveness, efficiency and economy) of the management and use of state (local) resources and the activities of the relevant governmental authorities, local self-government bodies and business entities" [1]. According to this Concept, strengthening the staffing capacity of the State Audit Service through the implementation of a new model for the development and training of highly qualified personnel was identified as one of the tasks for solving the problem of reforming the public financial control system (hereinafter referred to as PFC) and strengthening the institutional capacity of State Audit Service bodies (Task 5) [2]. Within this task, in order to form and retain highly professional staffing capacity, emphasis was placed on the need for the State Audit Service to prepare proposals "on ensuring such a level of funding as will enable State Audit Service bodies to perform their functions in full and ensure an appropriate level of remuneration. [3]"

At the same time, the Government of Ukraine, while addressing certain issues of remuneration of employees of state bodies and local self-government bodies

1 Концепція реалізації державної політики у сфері реформування системи державного фінансового контролю до 2020 року : схвал. розпорядж. КМУ від 10.05.2018 р. № 310-р. URL: https://zakon.rada.gov.ua/laws/show/310-2018-%D1%80#n10 (date accessed: 07.05.2026).

2 Там само.

3 Там само.

during martial law [4] did not extend to employees of the State Audit Service and its territorial bodies the coefficients for increasing official salaries provided for the period of martial law, as determined in accordance with legislation in the schemes (amounts) of official salaries (tariff rates), through separate legal regulation of their remuneration by a special law, namely Art. 6-1 of the Law of Ukraine: *On the Basic Principles of Public Financial Control in Ukraine* [5] (hereinafter referred to as the *Law on Public Financial Control*), which reduced motivation of state auditors and, in fact, complicated the ability of the State Audit Service to independently perform the functions assigned to it under martial law.

At the same time, the right of public financial control bodies, provided for by Art. 10 of the Law on Public Financial Control, to engage, on a contractual basis, qualified specialists from executive authorities, state funds, enterprises, institutions and organizations to conduct various inspections remains unchanged, and the exercise of this right can, to some extent, compensate for the reduction in the staffing capacity of the State Audit Service and its territorial bodies [6].

As case law indicates, the State Audit Service, by simplifying its understanding of the *contractual basis* category ignores the requirements of public procurement legislation and engages officials of executive authorities and scholars to carry out public financial control measures under a simplified procedure: through business correspondence, without organizing procurement procedures and without entering into contracts with them as such [7]. There is a widespread practice whereby the State Audit Service engages specialists to carry out public financial control measures by issuing them the same referrals as those issued to state auditors [8].

Under such conditions, the right of the State Audit Service to engage qualified professionals (specialists) to carry out control measures is subject to analysis in systemic connection with the right of a public financial control body, as an administrative body, to administrative mutual assistance provided for by the Law of Ukraine: *On Administrative Procedure*, which came into force on December 15, 2023 [9]. Therefore, research on harmonizing the above-mentioned rights of the State Audit Service becomes particularly relevant for ensuring its ability to properly perform the functions

4 Деякі питання оплати праці працівників державних органів та органів місцевого самоврядування під час воєнного стану : постанова КМУ від 25.04.2023 р. № 391 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/391-2023-%D0%BF#Text (date accessed: 07.05.2026).

5 Про основні засади здійснення державного фінансового контролю в Україні : Закон України від 26.01.1993 р. № 2939-XII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/2939-12#Text (date accessed: 07.05.2026).

6 Там само.

7 Рішення Харків. окруж. адмінсуду від 03.03.2025 р. Справа № 520/7216/24. Провадж. № П/520/8074/24 / ЄДРСР : вебсайт. URL: https://reyestr.court.gov.ua/Review/125819700 (date accessed: 07.05.2026).

8 Рішення Київ. окруж. адмінсуду від 03.07.2024 р. Справа № 320/14027/24. Провадж. № П/320/14028/24 / ЄДРСР : вебсайт. URL: https://reyestr.court.gov.ua/Review/121413724 (date accessed: 07.05.2026).

9 Про адміністративну процедуру : Закон України від 17.02.2022 р. № 2073-IX (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/2073-20#Text (date accessed: 07.05.2026).

assigned to it. Audit results may be verified, confirmed or refuted, by ordering and conducting a forensic examination, which is a source of evidence in a case of any jurisdiction. "Forensic activities are carried out by state specialized institutions, their territorial branches, forensic science institutions of communal ownership, as well as forensic experts who are not employees of the above-mentioned institutions, and other specialists (experts) in the relevant fields of knowledge in accordance with the procedure and under the conditions" determined by the Law of Ukraine: *On Judicial Examination* (Part 1 of Art. 7 of this Law) [10].

Article Purpose

Analyze the right of the State Audit Service to administrative mutual assistance provided for by the Law of Ukraine: *On Administrative Procedure* in the context of harmonizing this right with the right to engage qualified specialists in carrying out public financial control measures.

Research Methods

In order to achieve the stated purpose, both general scientific and special scientific methods were applied.

Historical legal and contextual methods were useful for analyzing the Concept, the impact of changes in legal regulation during martial law on the remuneration of state auditors and the consequences of the impact of legal acts on the staffing capacity of the State Audit Service, in order to explain the relevance of the problem of exercising its right to administrative mutual assistance.

The method of systemic analysis helped identify internal contradictions in current legislation by clarifying the consistency of the right of a public financial control body to engage qualified specialists, as provided for by specialized legislation, in systemic connection with the right of an administrative body to administrative mutual assistance.

The comparative legal method facilitated comparison and determination of the relationship between the procedures for exercising the right to engage qualified specialists on a "contractual basis" and "upon written request."

The method of generalization made it possible to formulate proposals for improving current legislation.

Analysis of Essential Researches and Publications

A significant contribution to research on the institutional and functional aspects of the system of public financial control bodies was made by N. Vyhovska, N. Havkalova, N. Dobizha, A. Karpych, I. Liutyi, Yu. Rusina, I. Sysoieva, H. Skrypnyk and et al.

Thus, I. Sysoieva and N. Dobizha demonstrated that the control system in Ukraine continues to develop intensively, while various characteristics of the organization of public financial control prove the need to improve the existing system [11]. I. Liutyi et al. identified the legal and regulatory prerequisites for implementing public financial control in Ukraine. Using the State Audit Service of Ukraine as an example,

10 Про судову експертизу : Закон України від 25.02.1994 р. № 4038-XII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/4038-12#Text (date accessed: 07.05.2026).

11 Сисоєва І. М., Добіжа Н. В. Особливості здійснення державного фінансового контролю в Україні. *Інвестиції: практика та досвід.* 2021. № 18. С. 11–18. DOI: 10.32702/2306-6814.2021.18.11 (date accessed: 07.05.2026).

the authors showed the importance of improving the public financial control system and proposed possible vectors for increasing its efficiency at the local level [12]. H. Skrypnyk and V. Chernenko examined the results of the activities of State Audit Service bodies under martial law and identified significant volumes of audits, procurement inspections and financial violations [13]. N. Havkalova and M. Tabatskyi identified factors that hinder the public financial control system and substantiated ways to improve the functioning of this system [14]. Yu. Rusina highlighted the main problems of public financial control under martial law, in particular staffing and employee motivation [15]. N. Vyhovska et al. clarified the concept of "public financial audit" based on an analysis of scholarly approaches and legal regulation, focusing on its distinction from other forms of control [16].

The research papers of Ukrainian administrative law scholars I. Boiko [17], K. Nesterenko and O. Bulhakova [18] and V. Tymoshchuk [19] on issues related to implementation of administrative procedure legislation are undoubtedly important for the chosen area of research.

Thus, I. Boiko establishes the significance of administrative procedure in public administration and demonstrates that it is a standard for the activities of public administration in resolving cases concerning a private person by adopting acts that grant rights to such a person or impose obligations on them; administrative procedure contains the best principles and practices of public administration, which make it possible to introduce the concept of good administration into practical activity [20]. K. Nesterenko and O. Bulhakova demonstrate that the introduction of a general administrative procedure

12 Лютий І., Карпич А., Зубченко В. Державний фінансовий контроль як чинник ефективного використання коштів місцевих бюджетів. *Світ фінансів*. 2021. № 4 (69). С. 53—62. DOI: 10.35774/sf2021.04.053 (date accessed: 07.05.2026).

13 Скрипник Г., Черненко В. Державний фінансовий контроль України в умовах воєнного стану. *Економіка та суспільство*. 2024. Вип. 70. 7 с. DOI: 10.32782/2524-0072/2024-70-139 (date accessed: 07.05.2026).

14 Гавкалова Н. Л., Табацький М. Г. Роль державного фінансового контролю у забезпеченні економічної безпеки держави. *Вісник Національного університету цивільного захисту України. Серія: Державне управління*. 2023. Вип. 2 (19). С. 13—23. DOI: 10.52363/2414-5866-2023-2-2 (date accessed: 07.05.2026).

15 Русіна Ю. О. Державний фінансовий контроль: основні проблеми в умовах воєнного стану. *Актуальні проблеми економіки*. 2025. № 2 (284). С. 148—160. DOI: 10.32752/1993-6788-2025-1-284-148-160 (date accessed: 07.05.2026).

16 Виговська Н. Г., Литвинчук І. В., Шинаков А. В. Державний фінансовий аудит: сутність, наукові підходи до визначення. *Економіка, управління та адміністрування*. 2025. № 1(111). С. 109—117. DOI: 10.26642/ema-2025-1(111)-109-117 (date accessed: 07.05.2026).

17 Бойко І. Роль і значення адміністративної процедури у публічному адмініструванні. *Науковий вісник Ужгородського національного університету. Серія: Право*. 2022. Вип. 69. С. 229—236. DOI: 10.24144/2307-3322.2021.69.39 (date accessed: 07.05.2026).

18 Нестеренко К. О., Булгакова О. В. Адміністративна процедура як новий етап взаємодії органів державної влади і суспільства. *Аналітично-порівняльне правознавство*. 2023. № 6. С. 482—486. DOI: 10.24144/2788-6018.2023.06.83 (date accessed: 07.05.2026).

19 Тимощук В. П. Розвиток законодавства про загальну адміністративну процедуру в Україні. *Альманах права*. 2023. Вип. 14. С. 383—388. DOI: 10.33663/2524-017X-2023-14-383-388 (date accessed: 07.05.2026).

20 Бойко І. Зазнач. твір. DOI: 10.24144/2307-3322.2021.69.39 (date accessed: 07.05.2026).

will bring Ukraine closer to European Union standards, since similar laws are in force in all EU Member States as an integral component of the right to good administration [21]. V. Tymoshchuk predicts that, in the medium and long term, the Law of Ukraine: *On Administrative Procedure* will perform the role of the main procedural regulator in public administration, and concludes that the principles which not only form the basis of this Law, but also serve as a criterion for resolving conflicts and filling gaps in all administrative procedure legislation, are exceptionally valuable [22].

Main Content Presentation

As noted above, pursuant to Art. 10 of the Law of Ukraine: *On the Basic Principles of Public Financial Control in Ukraine*, a public financial control body "has the right to engage, on a contractual basis, qualified specialists from "the relevant executive authorities, state funds, enterprises, institutions and organizations to conduct control measurements of construction, installation, repair and other works, control launches of raw materials and materials into production, control analyses of raw materials, materials and finished products, and other inspections" [23].

Although the right of a public financial control body to engage qualified specialists to conduct inspections is reproduced in a number of governmental and departmental acts regulating the procedures for carrying out public financial control measures including public financial audit, inspection, procurement inspection and others; it is regulated differently in those acts.

Thus, for example, the right of the State Audit Service and its interregional territorial bodies to engage qualified specialists specifically on a contractual basis is provided for financial audits of: the execution of budget programs (para. 15 of the *Procedure for conducting by the State Audit Service and its interregional territorial bodies of public financial audit of the execution of budget programs* [Here and below, italics in the titles of legal acts are mine.—Author]) [24], State (regional) target programs (para. 17 of the *Procedure for conducting by the State Audit Service and its interregional territorial bodies of public financial audit of state (regional) target programs*) [25], activities of business entities (para. 17 of the *Procedure for conducting by the State Audit Service and its interregional territorial bodies of public financial audit of the activities of business en-*

21 Нестеренко К. О., Булгакова О. В. Зазнач. твір. DOI: 10.24144/2788-6018.2023.06.83 (date accessed: 07.05.2026).

22 Тимощук В. П. Зазнач. твір. DOI: 10.33663/2524-017X-2023-14-383-388 (date accessed: 07.05.2026).

23 Про основні засади … . URL: https://zakon.rada.gov.ua/laws/show/2939-12#Text (date accessed: 07.05.2026).

24 Порядок проведення Державною аудиторською службою, її міжрегіональними територіальними органами державного фінансового аудиту виконання бюджетних програм : затв. постанов. КМУ від 10.08.2004 р. № 1017 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/1017-2004-%D0%BF#Text (date accessed: 07.05.2026).

25 Порядок проведення Державною аудиторською службою, її міжрегіональними територіальними органами державного фінансового аудиту державних (регіональних) цільових програм : затв. постанов. КМУ від 29.08.2018 р. № 692 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/692-2018-%D0%BF#Text (date accessed: 07.05.2026).

tities) [26], funds (para. 17 of the *Procedure for conducting by the State Audit Service and its interregional territorial bodies of public financial audit of the Pension Fund of Ukraine and compulsory state social insurance funds*) [27], as well as for operational audits (para. 7 of the *Procedure for conducting by the State Audit Service and its interregional territorial bodies of public financial audit of certain business operations carried out by business entities of the state sector of the economy*) [28] and procurement inspections (para. 9 of the *Procedure for conducting procurement inspections by the State Audit Service and its interregional territorial bodies*) [29].

As case law indicates, the State Audit Service interprets the concept of *contractual basis* as the basis for reaching agreement between subjects of legal relations in order to perform public-law functions when the State Audit Service conducts public financial audit, inspection, procurement inspection and procurement monitoring, including based on the results of control measurements of construction, installation, repair and other works, control launches of raw materials and materials into production, control analyses of raw materials, materials and finished products, and other inspections conducted by qualified specialists of the relevant executive authorities, state funds, enterprises, institutions and organizations, and believes that these regulatory provisions are not imperative as regards the obligation to enter into a contract when engaging a specialist to participate in conducting a public financial audit. The public financial control body, referring, in particular, to Arts. 205, 207 and 639 of the Civil Code of Ukraine [30], substantiates *possibility of entering into contracts under a simplified procedure through business correspondence* [31]. In our opinion, this position is erroneous, since, according to Art. 2 of this Code, civil legislation does not apply to budgetary relations, of which relations concerning public financial control are a part [32].

26 Порядок проведення Державною аудиторською службою, її міжрегіональними територіальними органами державного фінансового аудиту діяльності суб'єктів господарювання : затв. постанов. КМУ від 27.03.2019 р. № 252 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/252-2019-%D0%BF#Text (date accessed: 07.05.2026).

27 Порядок проведення Державною аудиторською службою, її міжрегіональними територіальними органами державного фінансового аудиту Пенсійного фонду України, фондів загальнообов'язкового державного соціального страхування : затв. постанов. КМУ від 27.12.2018 р. № 1147 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/1147-2018-%D0%BF (date accessed: 07.05.2026).

28 Порядок проведення Державною аудиторською службою, її міжрегіональними територіальними органами державного фінансового аудиту окремих господарських операцій, що здійснюються суб'єктами господарювання державного сектору економіки : затв. постанов. КМУ від 27.09.2022 р. № 1119 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/1119-2022-%D0%BF#n2 (date accessed: 07.05.2026).

29 Порядок проведення перевірок закупівель Державною аудиторською службою, її міжрегіональними територіальними органами : затв. постанов. КМУ від 01.08.2013 р. № 631. URL: https://zakon.rada.gov.ua/laws/show/631-2013-%D0%BF#n9 (date accessed: 07.05.2026).

30 Цивільний кодекс України від 16.01.2003 р. № 435-IV (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/435-15#Text (date accessed: 07.05.2026).

31 Рішення Харків. окруж. адмінсуду від 03.03.2025 р. Справа № 520/7216/24. Провадж. № П/520/8074/24 / ЄДРСР : вебсайт. URL: https://reyestr.court.gov.ua/Review/125819700 (date accessed: 07.05.2026).

32 Цивільний кодекс ... . URL: https://zakon.rada.gov.ua/laws/show/435-15#Text (date accessed: 07.05.2026).

Formally, there is no requirement concerning the qualification of specialists of "ministries, other central executive authorities, their territorial bodies and legal entities, regardless of their organizational and legal form," who may be engaged "to conduct an administrative verification" and "express an expert opinion" pursuant to para. 10 of the Procedure for the functioning of the management system and control over the implementation of Interreg and Interreg NEXT cross-border, transnational and interregional cooperation programs [33].

Instead, engagement of qualified specialists or other experts for the State Audit Service to conduct public procurement monitoring is not provided for at all either by the Law of Ukraine: *On Public Procurement* or by the Procedure for conducting by the State Audit Service and its interregional territorial bodies of public financial audit of local budgets [34].

The engagement by the State Audit Service of third parties to conduct inspections is currently regulated differently. Under Art. 4 of the Law on Public Financial Control, inspection is carried out by a public financial control body in the form of an audit and consists of "a documentary and factual verification of a certain set of issues or individual issues of the financial and economic activities of a controlled institution, which must ensure the detection of existing facts of violations of legislation and the identification of officials and materially responsible persons guilty of their commission" [35]. The difference in the legal regulation of engagement of specialists of ministries, other central executive authorities, their territorial bodies, enterprises, institutions and organizations is that it is carried out not on a contractual basis, that is, not on the basis of a contract concluded in accordance with the established procedure, but upon written request of the head of the public financial control body (para. 10 of the Procedure for conducting inspections by the State Audit Service and its interregional territorial bodies) [36]. At the same time, unlike the legal regulation of the engagement of qualified specialists to conduct public financial audit, para. 11 of the above-mentioned Procedure expressly provides for issuing a referral for conducting an audit in the form established by the

33 Порядок функціонування системи управління та здійснення контролю за виконанням програм транскордонного, транснаціонального та міжрегіонального співробітництва Interreg та Interreg NEXT : затв. постанов. КМУ від 05.11.2024 р. № 1268 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/1268-2024-%D0%BF#Text (date accessed: 07.05.2026).

34 Про публічні закупівлі : Закон України від 25.12.2015 р. № 922-VIII (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/922-19?find=1&text=%D0%BC%D0%BE%D0%BD%D1%96%D1%82%D0%BE%D1%80%D0%B8%D0%BD%D0%B3#w1_2 (date accessed: 07.05.2026) ; Порядок проведення Державною аудиторською службою, її міжрегіональними територіальними органами державного фінансового аудиту місцевих бюджетів : затв. постанов. КМУ від 12.05.2007 р. № 698 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/698-2007-%D0%BF#Text (date accessed: 07.05.2026).

35 Про основні засади … . URL: https://zakon.rada.gov.ua/laws/show/2939-12#Text (date accessed: 07.05.2026).

36 Порядок проведення інспектування Державною аудиторською службою, її міжрегіональними територіальними органами : затв. постанов. КМУ від 20.04.2006 р. № 55 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/550-2006-%D0%BF#Text (date accessed: 07.05.2026).

Ministry of Finance of Ukraine [37]. Moreover, the form of such referral is approved by the State Audit Service itself, and not by the Ministry of Finance of Ukraine, as provided for the forms of referrals for conducting public financial audit.

It should be noted that engagement of qualified specialists on a contractual basis or of specialists upon written request of the head cannot be equated with the transfer or delegation to such persons of the State Audit Service's authoritative powers to carry out public financial control measures. Specialized legislation, in particular the Law on Public Financial Control, also does not contain conditions under which the State Audit Service could grant the legal status of state auditor to those qualified specialists and specialists whom it engages in carrying out public financial control measures, but who are not officials of the State Audit Service or its interregional territorial bodies [38]. In this regard, we note that the existence of civil servant status for a qualified specialist or specialist does not change the body in which they perform civil service if such qualified specialist or specialist is engaged in control measures either on the basis of the relevant procurement contract concluded between the State Audit Service and the relevant body in which they perform civil service, or on the basis of an organizational and administrative act of the head of the body in which they perform civil service, adopted in response to a written request from the head of the public financial control body.

The above conclusions are based on the fact that only officials of the State Audit Service and its interregional territorial bodies are state auditors; therefore, only these officials have the statutory rights of a public financial control body: to perform actions within audit procedures, to be included in the relevant groups of state auditors, to perform duties and to bear responsibility. For this reason, only state auditors, who are officials of State Audit Service bodies, are authorized by law to carry out public financial control measures. This conclusion is the direct result of the provisions of the above-mentioned procedures for conducting public financial audit measures [39]. In this context, the already mentioned Procedure for conducting inspections by the State Audit Service and its interregional territorial bodies is no exception, since para. 3, subpara. 14, recognizes as officials of a public financial control body only employees or a group "consisting of two or more employees of the public financial control body who, within the competence of the public

37 Порядок проведення інспектування … . URL: https://zakon.rada.gov.ua/laws/show/550-2006-%D0%BF#Text (date accessed: 07.05.2026).

38 Про основні засади … . URL: https://zakon.rada.gov.ua/laws/show/2939-12#Text (date accessed: 07.05.2026).

39 Порядок проведення … виконання бюджетних програм … . URL: https://zakon.rada.gov.ua/laws/show/1017-2004-%D0%BF#Text (date accessed: 07.05.2026) ; Порядок проведення … цільових програм … . URL: https://zakon.rada.gov.ua/laws/show/692-2018-%D0%BF#Text (date accessed: 07.05.2026) ; Порядок проведення … діяльності суб'єктів господарювання … . URL: https://zakon.rada.gov.ua/laws/show/252-2019-%D0%BF#Text (date accessed: 07.05.2026) ; Порядок проведення … Пенсійного фонду України … . URL: https://zakon.rada.gov.ua/laws/show/1147-2018-%D0%BF (date accessed: 07.05.2026) ; Порядок проведення … державного сектору економіки … . URL: https://zakon.rada.gov.ua/laws/show/1119-2022-%D0%BF#n2 (date accessed: 07.05.2026).

financial control body, are assigned to conduct an audit or a cross-check" [40].

At the same time, by its order the Ministry of Finance of Ukraine provided for the issuance by the State Audit Service to a qualified specialist who is not an official of a State Audit Service body of a referral, similar to that received by state auditors, for conducting a public financial control measure and for collecting information and conducting a cross-check [41]. In our opinion, since a qualified specialist engaged by the State Audit Service to conduct a public financial control measure is not an official of a State Audit Service body and is not a state auditor, such specialist cannot directly conduct or carry out public financial control measures, and the State Audit Service has no legal grounds or powers to issue such specialist a referral in the form provided for state auditors.

In our view, the above-mentioned order of the Ministry of Finance of Ukraine contradicts the provisions of the Law on Public Financial Control [42], since it effectively grants the State Audit Service discretionary authority to transfer or delegate to third parties the powers of state auditors to carry out public financial control measures that is impermissible.

We believe that qualitatively new approaches to the exercise by the State Audit Service of the right to engage qualified specialists in carrying out public financial control measures need to be introduced in order to ensure compliance in its activities with the principles provided for by the Law on Administrative Procedure [43].

As we see from the analyzed procedures regulating engagement of qualified specialists in carrying out public financial control measures, the current procedure for engaging specialists to conduct audits is most closely aligned with the procedure for exercising the right to administrative mutual assistance. This very right of the State Audit Service as an administrative body is provided for by Art. 26 of the Law on Administrative Procedure and is aimed at implementing the principle of efficiency as one of the principles of administrative procedure by which all administrative bodies should be guided [44].

In our opinion, the named article provides that conditions for exercising such right are the performance of actions necessary to complete already initiated administrative proceedings, either where the administrative body is unable to perform the actions independently for justified reasons, or where performance of such actions by the administrative body itself, that is, the body requesting administrative mutual assistance, would be ineffective or more costly than their performance by another administrative body, that is, the body whose administrative mutual assistance is requested.

At the same time, it is the principle of efficiency, which, under Art. 14 of the Law on Administrative Procedure, consists in organizing the consideration and resolu-

40 Порядок проведення інспектування … . URL: https://zakon.rada.gov.ua/laws/show/550-2006-%D0%BF#Text (date accessed: 07.05.2026).

41 Про затвердження зразків направлень для посадових осіб органів державного фінансового контролю : наказ Мінфіну України від 30.12.2020 р. № 821 (зі змін. та допов.). URL: https://zakon.rada.gov.ua/laws/show/z0160-21#Text (date accessed: 07.05.2026).

42 Про основні засади … . URL: https://zakon.rada.gov.ua/laws/show/2939-12#Text (date accessed: 07.05.2026).

43 Про адміністративну процедуру … . URL: https://zakon.rada.gov.ua/laws/show/2073-20#Text (date accessed: 07.05.2026).

44 Там само.

tion of a case with the least expenditure of funds and other resources, in a simple and effective manner, that requires the body which has requested administrative mutual assistance to choose one administrative body from among several where they have the same competence [45]. In this context, for example, account should be taken of the costs of remuneration of officials and employees who, on behalf of the administrative body whose administrative mutual assistance is requested, will actually perform the necessary procedural actions required to complete the relevant administrative proceedings.

Conclusions

Engagement of qualified specialists on a contractual basis or of specialists upon written request of the head cannot be equated with the transfer or delegation by the State Audit Service to such persons of its authoritative powers to carry out public financial control measures. Audit results may be verified in various ways, including through forensic examination within the scope of the research subject. In this context, the order of the Ministry of Finance of Ukraine approving identical forms of referrals to be issued before public financial control measures are conducted to both state auditors and engaged qualified specialists does not comply with specialized legislation on public financial control.

The current state of legal regulation governing the exercise of the State Audit Service's right to engage qualified specialists when applying to the relevant executive authorities does not fully comply with the principle of efficiency as one of the principles of administrative procedure. This right needs to be aligned with the legislative structure of the administrative body's right to administrative mutual assistance.

The procedure for exercising this right where the State Audit Service applies to the relevant executive authorities and state funds needs to be legally distinguished from the procedure for exercising it where the State Audit Service applies to enterprises, institutions and organizations of any form of ownership: contracts concluded in accordance with public procurement legislation, rather than civil legislation, should remain the legal basis for engaging qualified specialists from enterprises, institutions and organizations, whereas qualified specialists of executive authorities and state funds should be engaged by the State Audit Service in compliance with the principle of efficiency under the procedure for exercising its right to administrative mutual assistance.

In the context of engaging specialists of executive authorities to carry out public financial control measures, this right should provide for safeguards against its abuse. We believe that, in the absence of such safeguards and if requests by the State Audit Service to other bodies become systemic, the exercise of this right may cause this public financial control body to lose its institutional capacity to perform the tasks and functions assigned to this body.

Право Державної аудиторської служби України на адміністративну взаємодопомогу

Віктор Квашин

Мета статті — здійснити комплексний аналіз права Державної аудиторської служби України на залучення кваліфікованих фахівців для проведення

45 Про адміністративну процедуру … . URL: https://zakon.rada.gov.ua/laws/show/2073-20#Text (date accessed: 07.05.2026).

заходів з державного фінансового контролю в системному зв'язку з інститутом адміністративної взаємодопомоги, передбаченим Законом України «Про адміністративну процедуру». Для досягнення поставленої мети застосовано загальнонаукові та спеціальні наукові методи. Окреслено проблеми реалізації ст. 10 Закону України «Про основні засади здійснення державного фінансового контролю в Україні» в умовах воєнного стану, кадрового дефіциту та зниження мотивації державних аудиторів. Проаналізовано акти чинного законодавства та практику залучення кваліфікованих фахівців Держаудитслужбою на договірних засадах і за письмовими зверненнями. Виявлено, що Держаудитслужба у своїй діяльності застосовує практику спрощеного розуміння договірних засад, засновану на невизнанні вимог законодавства про публічні закупівлі та принципів адміністративної процедури. На підставі аналізу відповідних урядових порядків, відомчих актів Міністерства фінансів України й судової практики доведено внутрішню суперечливість профільного законодавства в питаннях залучення фахівців (зокрема, щодо їх статусу та повноважень). Досліджено нормативну конструкцію права адміністративного органа на адміністративну допомогу, виокремлено умови реалізації цього права й можливості його застосування в діяльності органів держфінконтролю. Обґрунтовано необхідність законодавчого розмежування механізмів залучення Держаудитслужбою (в умовах обмеження її кадрового потенціалу) кваліфікованих фахівців від органів виконавчої влади й державних фондів — за допомогою реалізації права на адміністративну взаємодопомогу з дотриманням принципу ефективності адміністративної процедури, а кваліфікованих фахівців підприємств, установ і організацій — виключно на договірних засадах відповідно до законодавства про публічні закупівлі. Наголошено на необхідності запровадити запобіжники від зловживання Держаудитслужбою правом на адміністративну взаємодопомогу (з метою збереження інституційної спроможності виконувати покладені на неї завдання та функції).

Ключові слова: *державний фінансовий контроль; Державна аудиторська служба; залучення кваліфікованих фахівців; судова експертиза; судово-експертна установа; договірні засади; публічні закупівлі; адміністративна взаємодопомога.*

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References

Boiko, I. (2022). Rol i znachennia administratyvnoi protsedury u publichnomu administruvanni [The role and significance of administrative procedure in public administration]. *Naukovyi visnyk Uzhhorodskoho natsionalnoho universytetu. Seriia: Pravo.* Vyp. 69. DOI: 10.24144/2307-3322.2021.69.39 [in Ukrainian].

Havkalova, N. L., Tabatskyi, M. H. (2023). Rol derzhavnoho finansovoho kontroliu u zabezpechenni ekonomichnoi bezpeky derzhavy [The role of state financial control in ensuring the economic security of the state]. *Visnyk Natsionalnoho universytetu tsyvilnoho zakhystu Ukrainy. Seriia: Derzhavne upravlinnia*. Vyp. 2 (19). DOI: 10.52363/2414-5866-2023-2-2 [in Ukrainian].

Liutyi, I., Karpych, A., Zubchenko, V. (2021). Derzhavnyi finansovyi kontrol yak chynnyk efektyvnoho vykorystannia koshtiv mistsevykh biudzhetiv [State financial control as a factor of effective use of local budget funds]. *Svit finansiv*. № 4 (69). DOI: 10.35774/sf2021.04.053 [in Ukrainian].

Nesterenko, K. O., Bulhakova, O. V. (2023). Administratyvna protsedura yak novyi etap vzaiemodii orhaniv derzhavnoi vlady i suspilstva [Administrative procedure as a new stage of interaction between government bodies and society]. *Analitychno-porivnialne pravoznavstvo*. № 6. DOI: 10.24144/2788-6018.2023.06.83 [in Ukrainian].

Rusina, Yu. O. (2025). Derzhavnyi finansovyi kontrol: osnovni problemy v umovakh voiennoho stanu [State financial control: martial law period main challenges]. *Aktualni problemy ekonomiky*. № 2 (284). DOI: 10.32752/1993-6788-2025-1-284-148-160 [in Ukrainian].

Skrypnyk, H., Chernenko, V. (2024). Derzhavnyi finansovyi kontrol Ukrainy v umovakh voiennoho stanu [State financial control of Ukraine under martial arts]. *Ekonomika ta suspilstvo*. Vyp. 70. DOI: 10.32782/2524-0072/2024-70-139 [in Ukrainian].

Sysoieva, I. M., Dobizha, N. V. (2021). Osoblyvosti zdiisnennia derzhavnoho finansovoho kontroliu v Ukraini [Peculiarities of public financial control in Ukraine]. *Investytsii: praktyka ta dosvid*. № 18. DOI: 10.32702/2306-6814.2021.18.11 [in Ukrainian].

Tymoshchuk, V. P. (2023). Rozvytok zakonodavstva pro zahalnu administratyvnu protseduru v Ukraini [Development of legislation on general administrative procedure in Ukraine]. *Almanakh prava.* Vyp. 14. DOI: 10.33663/2524-017X-2023-14-383-388 [in Ukrainian].

Vyhovska, N. H., Lytvynchuk, I. V., Shynakov, A. V. (2025). Derzhavnyi finansovyi audyt: sutnist, naukovi pidkhody do vyznachennia [State financial audit: essence, scientific approaches to definition]. *Ekonomika, upravlinnia ta administruvannia*. № 1(111). DOI: 10.26642/ema-2025-1(111)-109-117 [in Ukrainian].

Kvashyn, V. (2026). Right of the State Audit Service of Ukraine to Administrative Mutual Assistance. *Theory and Practice of Forensic Science and Criminalistics.* Issue 2 (43). Pp. 171—183. DOI: 10.32353/khrife.2.2026.11.