

UDC 343.1

DOI <https://doi.org/10.32849/2663-5313/2023.2.09>**Oleksandra Strunevych,***Doctor of Juridical Science, Associate Professor, Senior Researcher, Scientific Institute of Public Law, 2a, H. Kirpa street, Kyiv, Ukraine, postal code 03055, strunevych_oleksandra@gmail.com***ORCID:** orcid.org/0000-0002-2359-103X

Strunevych, Oleksandra (2023). Fundamentals of forming prosecutorial activities in the Austro-Hungarian Empire. *Entrepreneurship, Economy and Law*, 2, 54–61, doi <https://doi.org/10.32849/2663-5313/2023.2.09>

FUNDAMENTALS OF FORMING PROSECUTORIAL ACTIVITIES IN THE AUSTRO-HUNGARIAN EMPIRE

Abstract. Purpose. The purpose of the article is to determine the specifics of prosecutorial activities in the Ukrainian lands in the Austro-Hungarian Empire and its current status. **Results.** The functions of specialised financial prosecutor's offices in the Ukrainian lands of the Austro-Hungarian Empire were as follows: 1) representing the interests of the state in resolving legal disputes (including cases related to the oil industry, mining, glassworks, communications, state monopolies, state estates, fines imposed by courts in disputes between large capitalist monopolies (syndicates, trusts); 2) court representation in cases involving state property and equivalent funds, and, as a result, protection of the state's property interests; 3) filing charges in court disputes concerning state property; 4) drafting court opinions; 5) legal assistance to state organisations, their advice when entering into legal contracts; 6) participation in the implementation of legal regulations concerning state property and funds that were equated to them. It is important to note that when representing the interests of state bodies in courts, financial prosecutors' offices enjoyed the procedural rights of a plaintiff or defendant. **Conclusions.** It is concluded that the system of public prosecution bodies has existed since ancient times and has undergone changes on different historical paths of its development, but the role of this body remains invaluable to this day. The historical analysis of the development of the provisions regulating prosecutorial activities enables to conclude that the idea of the prosecutor's powers and his/her procedural status has been constantly changing throughout the entire period of formation and development of the prosecution institution. Such changes were caused by the development of statehood, progress towards the rule of law and civil society. Therefore, the prosecution bodies and their activities on the territory of Ukraine during the period when it was part of the Austro-Hungarian Empire were characterised by a number of particularities due to the specifics of the territory. Thus, an important prerequisite for Ukraine's accession to the European legal space is to allow for the domestic process of prosecution in Austria-Hungary. Furthermore, historical and legal research suggests that the structure of the prosecution service and its competence should be improved in accordance with the generally accepted European standards.

Key words: system of prosecution bodies, legislation, legal status, specialised prosecutor's office.

1. Introduction

Studying the specifics of prosecutorial activities in the Austro-Hungarian Empire, domestic scholars primarily consider the period from 1849 to 1918. The starting point of this historical era is due to the fact that on 13 March 1849, the Austrian Emperor approved the Law Against Abuse of the Press and the Regulations on the Process of Investigation of Abuse of the Press, and these events are considered by domestic scholars as the starting point for the introduction of the post of public prosecutors in the Austro-Hungarian Empire and the beginning of the process of organising the system of general prosecution bodies (Khudoba, 2009). Meanwhile, in 1918, a number of important events took place in

the history of Ukraine, including the establishment of the Ukrainian People's Republic and the Western Ukrainian People's Republic and the collapse of the Austro-Hungarian Empire, which summed up the end of this era in the history of the formation of prosecutorial activities in the Ukrainian lands. We propose to consider this period, from 1849 to 1918, through the prism of the following periods:

Period I (1849–1855) – the establishment of prosecutorial activities in the Austro-Hungarian Empire;

Period II (1851–1867) – establishment and development of specialised prosecutor's offices;

Period III (1867–1918) – expansion of prosecutorial powers.

The purpose of the article is to determine the specifics of prosecutorial activities in the Ukrainian lands in the Austro-Hungarian Empire and its current status.

2. Formation of prosecutorial activities in the Austro-Hungarian Empire

After the annexation of the lands of Galicia, the Austro-Hungarian government began reforming the state authorities and local self-government. According to O. Kondratiuk, it focused on the creation of judicial and other law enforcement bodies: courts, police and the bar (Kondratiuk, 2011). As of 1849, a system of prosecution bodies was formed in the Ukrainian lands that were part of the Austro-Hungarian Empire, and prosecutors were vested with clearly defined competences. However, it should be noted that the legislation adopted at that time was not specialised as it mainly concerned the judicial system, with which the prosecutor's office was closely connected. However, starting from the following year, the Austro-Hungarian legislator adopted a number of regulations important for the functioning of the prosecution service in the Austro-Hungarian Empire.

Primarily, the provisions of the Austrian Provisional Code of Criminal Procedure of 17 January 1850 defined the legal status of the prosecutor as a participant in criminal proceedings, and in accordance with this status, the following powers were defined within this regulation (Tverdokhlib, 2015). The literature review reveals that the prosecutor's office in Galicia, despite the independence of the court from the prosecutor's office declared at the level of legislation, influenced the courts in the exercise of their powers. In this regard, N.Yu. Panych argues that supervision over the observance of legislation in the enforcement of court decisions in criminal cases was one of the key areas of prosecutorial activities in this period, and this was primarily due to the fact that the Austrian Provisional Code of Criminal Procedure of 17 January 1850 provided that the enforcement of court decisions within counties, as well as collegiate and regional courts, should be carried out under the supervision of the Public Prosecutor (*Womit eine neue provisorische Strafprozessordnung mit der Bestimmung kundgemacht wird, dass der Tag, an welchem sie in Wirksamkeit zu treten hat, erst nachtraglich bekannt gegeben wird*, 1850). In other words, prosecutors in the exercise of their powers did indeed have an influence on the judiciary by supervising their activities. In addition, according to N. Yu. Panych, judges were required to send monthly data to the Public Prosecutor on the number of executed court decisions in criminal cases under their supervision. The excep-

tion was cases where the convicted person was sentenced to death, as the Public Prosecutor and the judge jointly supervised the enforcement of such a decision (Panych, 2008). Therefore, with the adoption of the Austrian Provisional Code of Criminal Procedure, prosecutors were assigned the competence to supervise the enforcement of court decisions, which, on the one hand, made courts dependent on prosecutors, and on the other hand, demonstrated the importance of the prosecutor's office for the functioning of the state apparatus.

The further development of the legal status of the prosecutor is associated with the adoption of specific legislation on the prosecutor's office and prosecutorial activities. For example, on 10 July 1850, the Austrian Empire and the Austro-Hungarian Monarchy adopted the Organic Law on the Public Prosecutor's Office (Kulchytskyi, 1965). The scientific literature notes that, in fact, since the adoption of this legal regulation, the status of the prosecutor's office as a law enforcement body has been established. Among the functions of the prosecutor's office of the Austro-Hungarian Empire defined in this legal regulation, O. Kondratiuk identifies the following: first, the exercise of prosecutorial activities "partly for the purpose of direct justice in civil and criminal cases"; second, the exercise of prosecutorial activities "partly for the purpose of governmental administration of justice and for the improvement and correct application of laws in general" (Kondratiuk, 2011). The first type of function is related to governmental influence on the court, that is, it determines the actual subordination of the court to the prosecutor's office. As for the second type, these functions are related to the supervision of the rule of law in legal relations in the state.

For example, the position of public prosecutor was introduced at each district court. In 1850, in total, seven district prosecutor's offices were established on the Ukrainian territories of the Austro-Hungarian Empire: in Lviv, Zolochiv, Peremyshl, Sambir, Stanislav, Ternopil, and Chernivtsi. The position of the Prosecutor General was established at the Supreme Court of Justice and Cassation and at the Higher Regional Courts. The legal status of the Prosecutor General was regulated by the Imperial Patent of 7 August 1850. In particular, it defined that the Prosecutor General is the supreme guardian of the "unity of law and the proper application of the law". It was established that this position was directly subordinate to the Minister of Justice. The prosecutor general of the Supreme Court and the Court of Cassation and his deputies, as well as the prosecutors general of the higher provincial courts, were appointed by the emperor himself on the recom-

mentation of the minister of justice. All other prosecutors were appointed by the Minister of Justice, and the functional staff of the prosecutor's office were appointed by the Prosecutor General (Kondratiuk, 2011). Therefore, all of the above indicates that as of 1850, a system of prosecution bodies was actually formed in the Ukrainian territories of the Austro-Hungarian Empire and legislation was adopted to regulate their legal status. Several issues remained unresolved: first, the system of specialised prosecutor's offices had not yet been formed; second, some of the courts envisaged by the Resolution "On the main features of the new judicial system" of 14 October 1849 had not yet started operating, and thus the prosecutor's offices established under them.

On 13 August 1851, the Ministry of Finance issued a decree establishing the Financial Prosecutor's Office, which was subordinated to the Ministry of Finance and the regional financial directorate (Korytko, 2017).

On 31 December 1851, a law was adopted that improved the regulatory framework for the functions of the prosecutor's office. In particular, its competence was clarified. The structure and procedure of the prosecutor's office were regulated by a decree of the Minister of Justice. According to O. Kondratiuk, the prosecutor's office functionally supervised the activities of investigative bodies, the organisation and conduct of trials in district and county courts, brought and supported public prosecution in cases of anti-state activities, murders, robberies, arson, etc. (Kondratiuk, 2011). And in fact, all these components of prosecutorial activities in the Austro-Hungarian Empire were regulated as of 1851. According to M.H. Tverdokhlib, deputy state prosecutors or prosecutorial officials carried out their activities in the courts of first instance at the county level. In other words, as envisaged by the above-mentioned Resolution, the prosecutor's office functioned in the courts of first instance as a single state body (Tverdokhlib, 2015). State prosecutors represented the interests of citizens in the courts of first instance in certain categories of civil cases (e.g., divorce cases or cases of declaring a person dead). Moreover, the higher state prosecutor's offices were granted special powers (e.g., the right to appeal against decisions to remove records from land cadastres), which suggested that they had more authority. State prosecutor's offices were subordinated to the Minister of Justice and did not belong to the executive branch.

Therefore, the analysis of the first period of formation of prosecutorial activities in the Austro-Hungarian Empire (1849–1855) enables to identify the following events

which became key to the further development of the institution under study: first, at this stage, a system of prosecution bodies was formed which was not typical for previous historical periods and was in line with European models of organisation of these bodies; second, at this stage a large number of legal regulations on the prosecutorial activities were adopted; third, the competence of prosecutors, established in the above-analysed legislative acts, was much broader than in previous historical stages.

3. Establishment and development of specialised prosecutor's offices

The next period we have identified is dated 1851–1867. During this phase, specialised prosecutor's offices were established and developed. Considering the previous period analysed, one may notice an inconsistency in the chronology. This can be explained by the fact that the formation of specialised prosecutor's offices essentially took place in parallel with the formation of prosecutorial activities in the Austro-Hungarian Empire in general, but this process is still characterised by its own chronological framework.

For example, the existence of a specialised financial prosecutor's office in the system of the state mechanism of the Austrian, and later the Austro-Hungarian Empire is considered in the scientific literature as an important attribute of the prosecutorial system of that time, since this prosecutor's office ensured the representation of public interests in the interests of the state, in the field of economic, civil, property and administrative relations, within the economic orientation (Zhuvaka, 2019). The financial prosecutor's offices were under the control of the Ministry of Finance, which had the exclusive right to issue regulations to ensure the operation of financial prosecutor's offices. The process of organising financial prosecutor's offices to protect the property and related interests of the Austrian and later the Austro-Hungarian empires in Austria began in the eighteenth century, and in the nineteenth century such prosecutor's offices began to appear, including in Ukrainian lands. According to M.V. Nykyforak, in contrast to the general organisation of the system of prosecutor's offices, which, as we have established, were established at each county, county collegiate and regional court, and at each higher regional, higher judicial and cassation tribunal, financial prosecutor's offices were established exclusively in the main cities of each crown land and had no lower levels. Therefore, along with the financial prosecutor's offices of such cities of the empire as Vienna, Linz, Salzburg, Graz, Innsbruck, Klagenfurt, Leibach and Prague, a financial prosecutor's office functioned in Lviv (Nykyforak, 2001). When analysing how specialised

prosecutor's offices were established and developed, it is important to note that specialised financial prosecutor's offices operated separately from state prosecutor's offices. Moreover, financial prosecutor's offices were independent of the courts and were created separately from them. That is why, in our opinion, the processes of creation and development of specialised prosecutor's offices should be considered separately from the formation of prosecutorial activities in the Austro-Hungarian Empire in general.

There are different approaches in the scientific literature to determining the date of establishment of financial prosecutor's offices in the Ukrainian lands of the Austro-Hungarian Empire. Earlier in this paper, we presented the most generally accepted approach, according to which the financial prosecutor's office began its activities on 13 August 1851 in connection with the adoption of a relevant order of the Ministry of Finance (Korytko, 2017). According to other sources, in 1854, the Galician Financial Prosecutor's Office was established in Lviv, with one of its departments serving Bukovyna (Sukhonos, 2010). However, O.V. Kondratiuk in his study emphasises that as early as 16 June 1773, a financial administration was established in Lviv, which was reorganised into a financial board in 1775. On 31 January 1852, the financial board was transformed into a financial chamber, on the basis of which on 1 June 1852 the Galician Financial Prosecutor's Office was established, which was directly subordinated to the Austrian Ministry of Finance (Kondratiuk, 2011). Therefore, the preconditions for the emergence of financial prosecutor's offices were created long before the actual establishment of this institution. Consequently, the establishment and development of this body, as well as its subordinate *ekspozituras* (departments), was carried out in accordance with special legislation adopted for this purpose.

The financial prosecutor's office of Galicia was headed by a prosecutor who was subordinate to the Minister of Finance of the Empire. The Krakow *ekspozitura* was also managed by a prosecutor who was directly subordinate to the Galician financial prosecutor (Panych, 2008). In his research, N. Panych assessed the activities of the Galician Financial Prosecutor's Office in the Kingdom of Galicia and Lodomeria as being carried out at a high level and regulated perfectly by law. According to the researcher, "the perfect regulatory framework for its activities at the time, as well as the constant attention of the Austrian government to its reform and improvement, were prerequisites for the effective functioning of this body" (Panych, 2008). This indicates that the activities of this body were properly

regulated. However, there is no information in the scientific literature that the legislator, when deciding to establish this body, adopted the necessary legislation, and from the very first steps of the financial prosecutor's office, it exercised its competence adequately to the tasks assigned to it. In his other work, N.Yu. Panych admits that "the functioning of this body cannot be called exemplary". This can be explained by the fact that its activities covered the territory of one of the largest lands of the Austrian and later Austro-Hungarian monarchies. Therefore, the small staff of the Galician Financial Prosecutor's Office could not respond promptly and thoroughly to all cases it had (Panych, 2008). That is, on the one hand, financial prosecutor's offices of the Austro-Hungarian Empire should be considered as a part of the prosecutor's office system. However, on the other hand, they actually constituted an independent system of state bodies with special functions and competence. The literature review reveals that the competence of financial prosecutors' offices was to represent the interests of the state (the Austrian and later the Austro-Hungarian monarchy) in resolving legal disputes and to provide legal representation in cases involving state property and funds equivalent to it (Panych, 2008; Lytovka, 2013).

However, N.Yu. Panych states, "the activities of the Galician financial prosecutor's office were regulated by separate legislative acts, which testified to the special position of this body in the system of governance of the Kingdom of Galicia and Volodymeria", that is, such legislation was subsequently adopted (Panych, 2008). Moreover, different scientific sources contain different information about how such regulatory framework was implemented. According to O. Kondratiuk, despite the fact that the financial prosecutor's office began its activities on 1 June 1852, its competence and tasks were regulated by the order of the Minister of Finance of 16 February 1855 (Kondratiuk, 2011). In other words, according to the researcher, the regulation on the competence and tasks of the financial prosecutor's office was the relevant decree of the Minister of Finance of 16 February 1855. Panych notes that the main legal regulation governing the activities of the Galician Financial Prosecutor's Office was adopted on 16 February 1855, and it was a decree of the Ministry of Finance approving the temporary service instruction for financial prosecutors' offices (Panych, 2008). Therefore, all of the above indicates that as of 1855, the Austro-Hungarian Empire adopted a regulation which actually governed the activities of this body, establishing its competence and functions.

According to N.Yu. Panych, the main powers of the financial prosecutor's office included representation of the state's interests in resolving legal disputes and judicial representation in cases involving state property and funds equated to it (Panych, 2008). In addition to this function, V.M. Lytovka identified the following functions of developing juridical opinions and participating in the implementation of legal regulations concerning state property and funds that were equated to them (Lytovka, 2013). Therefore, the functions of specialised financial prosecutor's offices in the Ukrainian lands of the Austro-Hungarian Empire were as follows: 1) representing the interests of the state in resolving legal disputes (including cases related to the oil industry, mining, glassworks, communications, state monopolies, state estates, fines imposed by courts in disputes between large capitalist monopolies (syndicates, trusts); 2) court representation in cases involving state property and equivalent funds, and, as a result, protection of the state's property interests; 3) filing charges in court disputes concerning state property; 4) drafting court opinions; 5) legal assistance to state organisations, their advice when entering into legal contracts; 6) participation in the implementation of legal regulations concerning state property and funds that were equated to them. It is important to note that when representing the interests of state bodies in courts, financial prosecutors' offices enjoyed the procedural rights of a plaintiff or defendant.

Another important event for the period of creation and development of specialised prosecutor's offices was the establishment of the Chernivtsi Financial Prosecutor's Office. Until 1867, the powers of the Galician Financial Prosecutor's Office extended to the territory of Bukovyna, but on 31 December 1867, the official government gazette reported that the Bukovyna Financial Prosecutor's Office in Chernivtsi had begun its activities (Nykyforak, 2001). From that moment on, the competence of the Galician Financial Prosecutor's Office was limited to Galicia (eastern and western). Meanwhile, the Bukovinian Financial Prosecutor's Office in Chernivtsi was also subordinated to the Austrian Ministry of Finance and the regional financial directorate, and the only separate department of the Galician Financial Prosecutor's Office remained in Krakow as an ekspozitura.

Therefore, in the course of analysing the period of creation and development of specialised prosecutor's offices, we have identified the following key events: first, the establishment of the Galician Financial Prosecutor's Office and its ekspozituras; second, the regulatory framework for the activities of the Galician

Financial Prosecutor's Office and its ekspozituras; third, the establishment of the Chernivtsi Financial Prosecutor's Office.

4. Expansion of prosecutor's powers

The last period we have identified dates from 1867–1918 and includes numerous attempts by the legislator to expand prosecutorial powers. The study reveals that, in fact, a system of prosecutor's offices was established in the Austro-Hungarian Empire by 1855, and a system of specialised financial prosecutors by 1867. Since then, and until 1918, when the Austro-Hungarian Empire was divided into a number of independent states after its defeat in the First World War, only a few changes were made to the legal framework for prosecutorial activities. In general, the district prosecutor's offices, the prosecutor's offices of the Supreme Court and Cassation Tribunal and the Higher Regional Courts, and the special financial prosecutor's offices with their ekspozituras functioned on the legal framework that we have established in this paper.

For example, as we have established above, among the functions performed by prosecutors in the Austro-Hungarian Empire in accordance with the legislation adopted in the period from 1849 to 1855, it is worth highlighting supervision over compliance with the law in the enforcement of court decisions in criminal cases; supervision over the activities of investigative bodies, the organisation and conduct of trials in district and county courts; initiating and maintaining public prosecution in cases of anti-state activities, murders, robberies, arson; representing citizens in courts of first instance in certain categories of civil cases. However, in 1863, the powers of the prosecutor's office were supplemented by supervision over disciplinary violations of judicial officials, and in 1865 – supervision over the activities of prisons (Kondratiuk, 2011). Therefore, the functions of the prosecutor's office gradually expanded, and with them the importance of prosecutorial activities for society. It is evident that the influence of prosecutors on the courts was only expanding, despite the fact that, as we have established above, the principles of judicial independence in the Austro-Hungarian Empire were not properly ensured, and judges were accountable to prosecutors in their official activities. Since 1863, prosecutors have additionally supervised the disciplinary proceedings against judges, which has further increased their influence on the judiciary.

Further changes in the regulatory framework for prosecutorial services in the Ukrainian territories of the Austro-Hungarian Empire were introduced as part of the 1873 reform, which changed the names of some

of the positions related to prosecutorial activities. While the prosecutor of the Supreme Court and the Court of Cassation continued to be called the Prosecutor General, prosecutors of the Higher Regional Courts were called senior prosecutors, and prosecutors of the District Courts were called public prosecutors. In addition, as a result of the reform, prosecution in district courts was supported by deputy public prosecutors (Kondratiuk, 2011). As we can see, these changes were both purely formal in the context of the names for the position and directly related to the functions of prosecutors, namely the expansion of the functions of their deputies.

The next important change in the regulatory framework for prosecutorial activity dates back to 1898. When analysing the stage of creation and development of specialised prosecutor's offices, we noted that the functioning of financial prosecutor's offices was regulated by the Provisional Instruction of the Austrian Ministry of Finance of 1855. In 1898, it was reissued and improved. According to M.V. Nykyforak, the new Service Instruction for financial prosecutors' offices largely duplicated the provisions of the previous Provisional Instruction, but improved the legal status of financial prosecutors' offices in the empire (Nykyforak, 2001). It should be noted that the organisation of the prosecutor's office in the Ukrainian lands that were part of Austria-Hungary was created on the basis of the European model, as reflected in the productive experience that was important for the creation of this institution. The expansion of the powers of financial prosecutors' offices shows the continued focus of the legislator on the activities of financial prosecutor's office. This can be explained by the fact that Galicia, as a region rich in raw materials, contributed to the state treasury. Moreover, the expansion of the powers of financial prosecutors contributed to the establishment of the institution of representing the interests of citizens and the state in court. This Service Instruction was in force until 1918, that is, until the collapse of the Austro-Hungarian Empire.

Based on the analysis of the third period of formation of prosecutorial activities in the Austro-Hungarian Empire, we have identified the following key points for this phase:

First, the functions of the public prosecutor's office and the financial prosecutor's office were expanded;

Second, the names of positions related to prosecutorial activities were changed.

5. Conclusions

Therefore, having examined the history of the formation and development of prosecutorial activity, we can conclude that the system

of public prosecution bodies has existed since ancient times and has undergone changes on different historical paths of its development, but the role of this body remains invaluable to this day. The historical analysis of the development of the provisions regulating prosecutorial activities enables to conclude that the idea of the prosecutor's powers and his/her procedural status has been constantly changing throughout the entire period of formation and development of the prosecution institution. Such changes were caused by the development of statehood, progress towards the rule of law and civil society.

Thus, the prosecution bodies and their activities on the territory of Ukraine during the period when it was part of the Austro-Hungarian Empire were characterised by a number of particularities due to the specifics of the territory. Therefore, an important prerequisite for Ukraine's accession to the European legal space is to allow for the domestic process of prosecution in Austria-Hungary. Furthermore, historical and legal research suggests that the structure of the prosecution service and its competence should be improved in accordance with the generally accepted European standards.

References:

Khudoba, N. (2009). Zahalna kharakterystyka avstriiskoho kryminalno-protsesualnogo kodeksu 1873 roku [General characteristics of the Austrian Criminal Procedure Code of 1873]. *Forum prava*, no. 2, pp. 417–422 [in Ukrainian].

Kondratiuk, O.V. (2011). Do pytannia utvorennia i mistsia orhaniv prokuratury Halychyny v sudovii systemi Avstro-Uhorshchyny [On the question of the formation and place of the prosecutor's office of Galicia in the court system of Austria-Hungary]. *Naukovi visnyk Lvivskoho derzhavnogo universytetu vnutrishnikh sprav*, no. 4, pp. 20–24 [in Ukrainian].

Korytko, L.Ia. (2017). Stanovlennia i rozvytok pryrodokhoronnykh instytutiv v Avstro-Uhorskii imperii: istoryko-pravyi vymir (na materialakh Skhidnoi Halychyny 1867–1918 rr.) [Formation and development of environmental protection institutes in the Austro-Hungarian Empire: historical and legal dimension (based on the materials of Eastern Galicia 1867–1918): dissertation for obtaining the scientific degree of Doctor of Laws at.]. *dysertatsiia na zdobut-tia naukovooho stupenia doktora yurydychnykh na. Lviv: Lvivskiy derzhavnyi universytet vnutrishnikh sprav* [in Ukrainian].

Kulchytskyi, V.S. (1965). Derzhavnyi lad i pravo v Halychyni (v druhii polovyni KhIKh – na pochatku KhKKh st.) [State system and law in Galicia (in the second half of the 19th – at the beginning of the 20th century)]. Lviv [in Ukrainian].

Lytovka, V.M. (2013). Stanovlennia ta rozvytok instytutu finansovoi prokuratury na terytorii ukrain-

skykh zemel [Formation and development of the Institute of Financial Prosecutor's Office on the territory of Ukrainian lands]. *Naukovyi visnyk Mizhnarodnoho humanitarnoho universytetu*, no. 6–3 (1), pp. 16–18 [in Ukrainian].

Nykyforak, M.V. (2001). *Finansova prokuratura Bukovyny u 1867–1918 rr.* [The Financial Prosecutor's Office of Bukovina in 1867–1918]. *Pravo Ukrainy*, no. 1, pp. 133–134 [in Ukrainian].

Panych, N.Iu. (2008). *Stanovlennia ta rozvytok instytutu prokuratury v Halychyni u skladi Avstrii i Avstro-Uhorshchyny (1849–1918 rr.)* [Formation and development of the prosecutor's office in Galicia as part of Austria and Austria-Hungary (1849–1918)]. *Candidate's thesis*. Lviv: Lviv. nats. un-t im. I. Franka [in Ukrainian].

Sukhonos, V.V. (2010). *Pravovi ta orhanizatsiini aspekty rozvytku prokuratury krainy v suchasnykh umovakh* [Legal and organizational aspects of the development of the country's prosecutor's office in modern conditions]. Sumy [in Ukrainian].

Tverdokhlib, M.H. (2015). *Uchast prokurora v kryminalnomu provadzhenni v sudi na Bukovyni ta Halychyni (1849–1918 rr.)* [Participation of the prosecutor in criminal proceedings in the court in

Bukovina and Galicia (1849–1918)]. *Naukovyi visnyk Khersonskoho derzhavnoho universytetu. Serii Yurydychni nauky*, no. 2. T. 2, pp. 184–185 [in Ukrainian].

Tverdokhlib, M.H. (2015). *Uchast prokurora v kryminalnomu provadzhenni v sudi na Bukovyni ta Halychyni (1849–1918 rr.)* [Participation of the prosecutor in criminal proceedings in the court in Bukovina and Galicia (1849–1918)]. *Naukovyi visnyk Khersonskoho derzhavnoho unyversytetu. Serii Yurydychni nauky*, no. 2. T. 2, pp. 184–185 [in Ukrainian].

Womit eine neue provisorische Strafprozessordnung mit der Bestimmung kundgemacht wird, dass der Tag, an welchem sie in Wirksamkeit zu treten hat, erst nachtraglich bekannt gegeben wird: Kaiserliches Patent vom 17 Januar 1850 № 25 / Allgemeines Reichs-Gesetz – und Regierungsbllstt fur das Kaiserthum Oesterreinh. 1850. XVII. Stuck, pp. 287–395 [in German].

Zhuvaka, S.O. (2019). *Istoryko-pravovy analiz rozvytku funktsii prokuratury Ukrainy* [Historical and legal analysis of the development of the functions of the prosecutor's office of Ukraine]. *Candidate's thesis*. Kyiv: Nats. akad. vnutr. Sprav [in Ukrainian].

Олександра Струневич,

доктор юридичних наук, старший науковий співробітник, Науково-дослідний інститут публічного права, вул. Г. Кірпи, 2а, Київ, Україна, індекс 03035, strunevych_oleksandra@gmail.com
ORCID: orcid.org/0000-0002-2359-103X

ЗАСАДИ ФОРМУВАННЯ ПРОКУРОРСЬКОЇ ДІЯЛЬНОСТІ В АВСТРО-УГОРСЬКІЙ ІМПЕРІЇ

Анотація. Мета. Метою статті є визначення специфіки прокурорської діяльності на українських землях в Австро-Угорській імперії та її сучасне становище. **Результати.** Функціями спеціалізованих фінансових прокуратур на українських землях у складі Австро-Угорської імперії були: 1) представництво інтересів держави під час вирішення правових спорів (у тому числі у справах, які належали до сфери нафтової промисловості, гірничої справи, скловиробних заводів, установ зв'язку, державних монополій, казенних маєтків, штрафів, що накладалися судами у справах великих капіталістичних монополій (синдикатів, трестів); 2) судове представництво у справах, предметом розгляду яких були державне майно та привілляні до нього фонди, і, як наслідок, захист майнових інтересів держави; 3) висунення звинувачень у судових справах, що стосувалися державного майна; 4) вироблення правових висновків; 5) юридична допомога державним організаціям, консультування їх для укладання юридичних договорів; 6) участь у реалізації правових актів, що стосувалися державного майна та фондів, які до них прирівнювалися. Важливо при цьому зазначити, що, здійснюючи представництво інтересів державних органів у судах, фінансові прокуратури користувалися процесуальними правами позивача чи відповідача. **Висновки.** Зроблено висновок, що система органів прокуратури існує ще з найдавніших часів, а на різних історичних шляхах свого розвитку зазнавала змін, але роль цього органу залишається неоцінною і до сьогодні. Історичний аналіз розвитку положень, які регламентують прокурорську діяльність, дає змогу сформулювати висновок про те, що уявлення про повноваження прокурора, його процесуальний статус протягом усього періоду становлення й розвитку інституту прокуратури постійно змінювалися. Такі зміни були зумовлені розвитком державності, просуванням до побудови правової держави та громадянського суспільства. Отже, діяльність органів прокуратури на території України під час перебування їх у складі Австро-Угорської імперії характеризувалася рядом особливостей, зумовлених специфікою території. Тому важливою передумовою входження України у європейський правовий простір є врахування вітчизняного процесу прокурорської діяльності в Австро-Угорщині. Крім того, історико-правові дослідження свідчать про доцільність

удосконалення структури діяльності органів прокуратури та її компетенції відповідно до європейських стандартів, які є загально визнаними.

Ключові слова: система органів прокуратури, законодавство, правовий статус, спеціалізована прокуратура.

The article was submitted 16.10.2023

The article was revised 07.01.2023

The article was accepted 27.11.2023