

JEL CLASSIFICATION: K00, K30

## THE PLACE OF THE BANKING LAW IN THE LEGAL SYSTEM OF UKRAINE

**Svitlana Yu. OBRUSNA**

*Doctor of Law Associate Professor of Social Sciences and Humanitarian Department of Cherkasy Institute of Banking of the University of Banking of the National Bank of Ukraine (Kyiv)*

*Summary. The article deals with the disputable problems of determining the essence and the place of the banking law in the legal system of Ukraine. The main scientific approaches to the above mentioned problem have been evaluated. The point of view*

*concerning the determination of the banking law as a separate branch has been grounded on the basis of the analysis of the subject, method, system and sources of the banking law.*

*Key words: banking law as a branch of law, subject of the banking law, method of the banking law, system of the banking law, norms of the banking law, sources of the banking law.*

In the second half of the XX century, especially after gaining Ukraine's independence, there appeared a significant number of new groups of law in the system of national legislation. The subject of their regulation was homogeneous social relations. Their appearance was a reaction of the state to the rapid development of social, especially economic relations which have shaped the emergence of new economic mechanisms that needed proper legal regulation. One of these groups still has disputes among scientists. A set of normative legal rules governing the relations connected with the activities of banks belong to this group.

The term "banking law" firmly anchored in scientific and legal terminology and is widely used in the practice of banking. Under the modern conditions there arose a need for a more detailed study of the problems of legal regulation of banking activities, including the role played by the banks in the economic life of Ukraine. Meanwhile, the legal regulation of banking activities refers to a rather complex and poorly developed problem of national law.

Defining the essence of the banking law and its place in the system of the national law is of great theoretical importance. During the scientific discussion concerning the place of the banking law in Ukraine's legal system the following points of view have been put forward: banking law is a subbranch of law (financial, civil or economic); it is a complex branch of law, banking law as a separate branch of law does not exist, we can only talk about the existence of banking legislation.

As we can see, there is no common approach to solving the problem. The purpose of this research is

to study and generalize the experience in identifying the essence and place of the banking law in Ukraine's legal system; to justify the place of the banking law as an independent branch of the complex and determine the future prospects of the study.

The analysis of these problems made it possible to formulate the following conclusions: banking law is closely connected with the economic processes in the country and is used to settle specific relations arising in the process of banking activities and the provision of banking services. Banking law has its own sphere (industry), the purpose and objectives of the legal regulation. As a branch of the general system of law it is complex and includes the sources of both public and private law (laws and regulations). In banking law statutes are distinguished on the basis of the subject of legal regulation and are systematized in the sequence of their legal power. Banking law uses both mandatory and discretionary methods of regulating banking relationships. Banking law is not a mechanical unification of the rules of basic areas of law, but a qualitatively new, legally coherent legal entity. Banking law as a complex branch of law unites legally heterogeneous relationships in holistic entity on the basis of similar subject, theme and target characteristics. It enriches their content, promotes the development of new concepts and statements in connection with the development of significant legal terminology. The most promising areas of research are the formation of terminology of banking law, methodological research tools, the determination of the content of the banking law, its institutions and so on.

*References*

1. Strehovych V. (1998) *Pravova systema Ukrainy: zahalna kharakterystyka suchasnoho etapu formuvannia* [The Legal System of Ukraine: General Characteristics of Current Formation Stage]. *Pravo Ukrainy*. 2. 3–8.
2. Mykolenko A. Y. (2002) *Mesto admynystratyvno-protsessual'noho prava v systeme prava Ukrainy* [Place of Administrative Procedure Law in the Law System of Ukraine]. *Pravova derzhava*. 4. 171–174.
3. Kostiuchenko O. A. (1999) *Bankivske pravo* [Bank Law]. K.: KNEU.
4. Kostiuchenko O. A. (2003) *Pravovi aspekty bankivskoi diialnosti: posibnyk z problem bankivskoho prava* [Legal Aspects of Banking: a Guide to the Problems of Banking Law]. K.: Krynytsia.
5. *Bankivske pravo Ukrainy* [Bank Law of Ukraine] Selivanova A. O. (Ed.). K.: Vydavnychi Dim «In Yure». 2000.
6. Hetmantsev D. O. (2007) *Bankivske pravo Ukrainy* [Bank Law of Ukraine]. Kyiv: TsUL, 2007.