

# PLACE OF THE NATIONAL AGENCY OF UKRAINE FOR DETECTION, TRACING AND MANAGEMENT OF ASSETS DERIVED FROM CORRUPTION AND OTHER CRIMES IN THE SYSTEM OF CENTRAL EXECUTIVE AUTHORITIES

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**Annotation.** The article examines the place of the National Agency of Ukraine for Detection, Tracing and Management of Assets Derived from Corruption and Other Crimes (hereinafter – ARMA) within the system of central executive authorities (hereinafter – CEAs). It has been established that ARMA is classified as a CEA with special status. However, due to the lack of a clear legal definition of a CEA with special status, this issue requires further elaboration and legislative regulation. The article concludes that ARMA possesses special powers and plays a unique role within the system of central executive authorities. It is highlighted that ARMA performs a wide range of functions in the field of asset management related to corruption and other crimes, and a classification of these functions within the CEA system is provided. The article analyzes the tasks performed by ARMA, which include the seizure, confiscation, or recovery of assets for the benefit of the state. These tasks are carried out in constant cooperation with pre-trial investigation bodies, the prosecution, courts, international and intergovernmental organizations, and networks engaged in asset tracing and management. It is emphasized that ARMA operates independently in exercising its powers. Particular attention is paid to ARMA's cooperation with law enforcement bodies to ensure the country's economic security. It is determined that ARMA belongs to the CEAs that develop and implement anti-corruption policy, and its specific role in this process is outlined. The article characterizes the features of ARMA as a CEA, including the procedure for appointing its Head, the rules of accountability and oversight, and its authority to issue normative legal acts. The study concludes that ARMA is a specialized body with anti-corruption and economic functions, which does not have the status of a law enforcement body, does not perform general public administration functions, but instead exercises narrowly defined powers.

**Key words:** CEO with special status, ARMA's tasks, economic security of the country, ARMA's powers.

## 1. Introduction.

The establishment and operation of ARMA are part of Ukraine's commitments to the EU and the Council of Europe in the field of anti-corruption. This highlights the importance of defining ARMA's place within the system of CEAs. Moreover, ARMA is a new body within the executive branch, which justifies the need for scholarly research into its status, powers, interaction with other state authorities, accountability, and related aspects. Such research is essential to ensure proper legal certainty in the regulation of ARMA's activities, as well as to safeguard its independence and institutional capacity in the context of public administration reform, decentralization, anti-corruption policy, and the challenges of martial law.

## **2. Analysis of scientific publications.**

An analysis of recent research and publications indicates that the functioning, role, and status of CEAs are quite extensively addressed in scholarly literature. However, comprehensive studies specifically dedicated to the role and place of ARMA within the system of CEAs are currently lacking. Nevertheless, certain aspects of ARMA's role and position in the CEAs system have been explored by scholars such as Yu.V. Vashchenko, R.V. Negara, V.A. Derets, N.B. Novytska, V.A. Mykolayets, A.M. Novytskyi, R.O. Kramar, and O.A. Shevchuk etc.

## **3. The aim of the work.**

The purpose of the article is to determine the place of ARMA within the system of CEAs.

## **4. Review and discussion.**

The Constitution of Ukraine enshrines the principle of the separation of state power into legislative, executive, and judicial branches, assigning specific areas of activity to each branch of government, within which they perform their respective functions [1]. The system of executive authorities consists of the highest level (the Cabinet of Ministers of Ukraine), central authorities (ministries, departments, state agencies and services, inspections, commissions, and central executive authorities with special status), and administrative-territorial levels [2, p. 103]. Executive authorities are vested with the necessary operational autonomy, which is expressed through their competence – areas of jurisdiction, rights, responsibilities, and territorial scope of activity for each individual body [3, p. 23].

According to the Resolution of the Cabinet of Ministers of Ukraine dated September 10, 2014, No. 442, ministries and CEAs, including ARMA, are part of the CEA system based on the direction and coordination of their activities by the government [4]. Article 2 of the Law of Ukraine "On the National Agency of Ukraine for the Detection, Search and Management of Assets Derived from Corruption and Other Crimes," dated November 10, 2015, defines ARMA as a CEA with special status [5]. It should be noted that CEAs with special status were introduced into the system of executive authorities by the Presidential Decree "On the System of Central Executive Authorities" dated December 15, 1999, No. 1672. This act also formulated their main characteristics: special tasks and powers defined by the Constitution and laws of Ukraine; the possibility of establishing a special procedure for creation, reorganization, liquidation, control, accountability, appointment and dismissal of heads, and other issues [6]. However, at the regulatory level, it has not yet been clearly defined what specific features of a body's competence warrant granting it special status within the system of executive authorities [7, p. 127].

Subsequent legal regulation and law enforcement practice regarding the establishment and functioning of CEAs, including those with special status, were systematized with the adoption of the Law of Ukraine "On Central Executive Authorities" [8, p. 25]. This law does not list ARMA among the CEAs with special status but merely provides that other CEAs with special status may be established by the government or in accordance with the law. Moreover, the clear criteria for classifying a public authority as a CEA with special status remain undefined [9, p. 68].

This situation has led to a variety of scholarly approaches to identifying such criteria. For instance, Yu. V. Vashchenko identifies the following features of CEAs with special status: their competence; the procedure for creation, reorganization, and liquidation; procedures for appointment and dismissal of heads; management conditions; and the level of legal regulation of the foundations of organization and activities [7, p. 127]. According to R.V. Negara, a CEA may be considered to have special status if it is established in accordance with the Constitution and laws of Ukraine; if it has broad functional powers (ensuring the formation and implementation of state policy in one or more areas); and if it is subject to special oversight and accountability. However, he argues that competence,

procedures for creation, reorganization, and liquidation; government direction and coordination; or the organizational and legal form of the entity should not be considered criteria for determining special status [8, p. 25]. O.S. Dniprov believes that CEAs with special status have special tasks and powers defined by the Constitution and legislation of Ukraine, and that a special procedure may be established for their creation, reorganization, liquidation, oversight, accountability, appointment and dismissal of heads, and resolution of other issues [10, pp. 184-185].

Article 9 of the Law of Ukraine “On the National Agency of Ukraine for the Detection, Search and Management of Assets Derived from Corruption and Other Crimes” provides grounds to conclude that ARMA performs a wide range of functions in the area of asset management derived from corruption and other crimes. These functions can be classified by areas of activity as follows: 1) analytical and search function (asset tracing, analysis of statistical data, research results, and other information related to asset detection, tracing, and management); 2) management function (organization and implementation of measures related to the valuation, registration, and management of assets); 3) control and supervisory function (monitoring the effectiveness of the management of seized assets); 4) asset disposal function in cases prescribed by law, including assets confiscated in criminal proceedings or seized by court decision as unjustified; 5) coordination function (cooperation with law enforcement agencies of Ukraine and foreign countries); 6) regulatory and consultative function.

It is important to note that ARMA may exercise its procedural powers related to asset detection and tracing only by submitting requests to state authorities and local self-government bodies to obtain the information necessary for fulfilling its duties, as well as accessing statistical data from various databases maintained by public administration bodies [11, p. 74].

The provisions of Ukrainian legislation indicate that ARMA does not possess investigative or operational-search powers. R. I. Kramar notes that ARMA is not a law enforcement body because “asset tracing,” as defined by the Law of Ukraine “On the National Agency of Ukraine for the Detection, Search and Management of Assets Derived from Corruption and Other Crimes,” refers to searching through information sources and databases. ARMA receives requests from law enforcement agencies to trace and detect assets both within Ukraine and abroad [12, p. 64].

Today, ARMA may serve as a unique information hub for pre-trial investigation bodies, and regular engagement with it can enhance the effectiveness of crime detection and investigation. The information provided by ARMA about identified and traced assets can help pre-trial investigation bodies achieve a wide range of legitimate goals (e.g., locating and identifying wanted persons; discovering traces, tools of a crime, or property obtained as a result of a criminal offense), and is not limited solely to the purpose of asset seizure in criminal proceedings [13, pp. 31-32].

Thus, ARMA's functions cannot be effectively fulfilled without interaction with NABU, SAPO, SBI, the Prosecutor's Office, the police, and cooperation with foreign law enforcement agencies – this interagency coordination is a defining feature of ARMA's legal status. At the same time, I. S. Kovalchuk emphasizes that in terms of its scope of functions, nature, and legal status, ARMA has no analogues within Ukraine's system of state authorities [14, p. 107].

However, A. B. Maslova draws attention to the fact that ARMA's activities – related to asset detection, tracing, and management – may be distorted from their intended purpose if they are solely aimed at generating revenue for the state budget or prioritizing the goals of private partnerships over, for example, preventing and combating corruption. Therefore, it is necessary to adopt a concept of balance and optimization of ARMA's operations in all areas defined by law [15].

In scholarly doctrine, ARMA is also classified as a public authority responsible for shaping and implementing anti-corruption policy. Such policy is always carried out within the framework of legally defined functions and powers of specific anti-corruption entities. This aligns with the fundamental principle of the unity of state power based on the common inherent functions of the state – one of which, ensuring the normal functioning of society in all spheres of public relations, is the anti-corruption function [16, p. 220]. In particular, Ye. V. Zozulia includes ARMA in the modern system of Ukraine's anti-corruption institutions, which was established between 2014 and 2019 [17, p. 31].

V. V. Verbanovskyi also classifies ARMA as part of the system of anti-corruption bodies, which, in addition to its legally defined functions, also performs anti-corruption tasks [18, p. 140].

The functions and tasks of ARMA allow us to conclude that it is certainly not an anti-corruption body in the same sense as, for example, NABU or the NACP, since it is not vested with investigative or operational-search powers, nor is it engaged in corruption prevention or awareness activities. However, ARMA does perform anti-corruption functions, and its activities are of significant importance for the implementation of the operational function of anti-corruption bodies, which involves the prevention and counteraction of corruption offenses [17, p. 32]. ARMA takes measures for the detection, tracing, and management of assets acquired through corruption and other crimes prior to a court ruling on their confiscation or return to the rightful owner. Asset recovery is a fundamental principle of anti-corruption legislation, without which it is impossible to remedy the financial damage caused by corruption [19].

Given the powers granted to ARMA, it can be regarded as an entity that contributes to the economic security of the state. Corruption is considered by scholars to be one of the main internal threats to national security in general and economic security in particular. At the current stage of state-building, corruption-related crime is not only a major source of social tension in society but also a barrier to implementing socio-political and economic reforms, and, consequently, to fulfilling the vital interests of Ukraine as a whole [20, p. 201].

The provisions of the Law of Ukraine "On the National Agency of Ukraine for the Detection, Search and Management of Assets Derived from Corruption and Other Crimes" indicate that the management of ARMA is carried out by the Head (Art. 3), and its staff includes civil servants and employees working under employment contracts (Art. 8). The special procedure for the competitive selection of the ARMA Head, the defined grounds for termination of their powers, and the imposition of personal responsibility for the transparency and results of ARMA's operations are among the guarantees of its effective, independent, and transparent functioning. In addition to personnel guarantees, the law also outlines guarantees of accountability and control, financial and operational autonomy, and more.

A special procedure for accountability and oversight of ARMA's activities is one of the characteristics that define it as a CEA with a special status. Specifically, ARMA is accountable to the Verkhovna Rada of Ukraine and controlled by and responsible to the Cabinet of Ministers of Ukraine [21]. Legislation also stipulates that another key feature of oversight of ARMA is the annual independent external evaluation by a commission composed of representatives of the President of Ukraine, the Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine. An integral part of this evaluation is the annual external audit of ARMA's activities, conducted by an international or audit firm recognized in Ukraine [5].

One of the key features of the special status of CEAs is the right to issue regulatory legal acts. In legal doctrine, the issue of law-making by executive bodies has received thorough scientific elaboration. In particular, V. M. Panasyuk, Yu.Yu. Baltsiy, and P. M. Synytsyn distinguish the characteristics of rule-making by executive authorities (operational efficiency, flexibility, and less formality compared to law-making), which enable a prompt response to emerging issues, changes in social conditions, new societal demands, regulation of those aspects of social relations that are too specific for the legislator, and the introduction of amendments to acts only in the necessary parts [22, p. 357]. According to O.A. Shevchuk, the ability of CEAs with special status to issue subordinate regulatory legal acts is crucial for understanding their legal status [23, p. 32].

ARMA's authority to issue regulatory legal acts within the scope of its competence and binding for execution is explicitly established by Article 10 of the Law of Ukraine "On the National Agency of Ukraine for the Detection, Search and Management of Assets Derived from Corruption and Other Crimes." Within the scope of its authority, ARMA issues such regulatory legal acts as orders, which are subject to state registration by the Ministry of Justice of Ukraine, are included in the Unified State Register of Regulatory Legal Acts, and become effective on the date of their official publication, unless otherwise provided in the acts themselves, but not earlier than the date of official publication [5].

A summary of the information from the Unified State Register of Regulatory Legal Acts indicates that ARMA issued 52 orders from October 2017 to January 2025, which have proven to be an important tool for ensuring the agency's effective operation. These orders allow for the detailed regulation of the mechanisms for performing its functions, which are not always fully governed at the legislative level, and allow for a faster adaptation of its operations to new international standards through the adoption of such acts, particularly those related to the effective management of confiscated assets or changes in legislation.

## 5. Conclusions.

The analysis of Ukrainian legislation and doctrinal approaches confirms that ARMA is a CEA with a special status. The specific procedure for appointing the Head of ARMA, its accountability and oversight mechanisms, and its unique functions related to the search, seizure, management, and disposal of assets set it apart from other executive authorities. The analysis of relevant legislation and doctrinal interpretations of the concepts of “law enforcement body” and “anti-corruption body” suggests that ARMA is a specialized body with anti-corruption and economic functions, though it does not have the status of a law enforcement agency. ARMA does not perform general functions of state administration but operates within a narrowly defined scope of powers. However, it exercises its authority across the entire territory of Ukraine, its jurisdiction is not limited to a particular region, and it operates based on a principle of sole authority rather than collegial leadership.

Nonetheless, despite its special status among CEAs, it is important to highlight the need to strengthen the institutional capacity of ARMA. There is an urgent need to improve legislation, reinforce guarantees of independence, enhance institutional resilience, and ensure transparent external oversight mechanisms over ARMA's activities. Only under such conditions can the full realization of ARMA's mission in the detection, tracing, and management of assets obtained from crimes be achieved.

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