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УДОСКОНАЛЕННЯ ДЕРЖАВНОЇ РЕГУЛЯТОРНОЇ ПОЛІТИКИ В УКРАЇНІ NA ОСНОВІ СВИТОВОГО ДОСВІДУ

Актуальність. Система державного регулювання, що існує в Україні, не сприяє підвищенню конкурентоспроможності вітчизняних підприємств, впровадженню інновацій та розвитку провідних галузей національної економіки. Водночас вона створює значне адміністративне навантаження на бізнес. Заходи з дерегулювання, що здійснювалися неодноразово, давали лише тимчасовий ефект. Для удосконалення регуляторної політики в Україні важливе значення має дослідження кращих світових практик, насамперед досвіду ЄС.

Мета та завдання. Мета статті – на основі дослідження кращого світового досвіду та ситуації в Україні обґрунтувати заходи, спрямовані на вдосконалення державної регуляторної політики.

Матеріали та методи. У процесі дослідження застосовані такі методи: компаративний аналіз, статистичний аналіз, системно-структурний підхід. Були використані нормативно-правові акти України та Європейського Союзу, офіційні документи ОЕСР, Державної регуляторної служби України, праці іноземних та вітчизняних науковців.

Результати. Проаналізовано зміни у державній регуляторній політиці розвинених країн у ХХІ столітті. З'ясовано, що в сучасних умовах акцент робиться не на дерегулюванні певних ринків, а на поліпшенні якості регуляторних актів за рахунок їх оцінки на протязі всього життєвого циклу: від підготовки проекту до перегляду. Досліджено необхідність оцінки фактичного впливу регуляторних актів та методологію її проведення. З'ясовано, як у розвинених країнах забезпечується відкрите та прозоре регуляторної політики, ефективний відбір регуляторних змін з урахуванням їх значення в процесі регулювання. Проаналізовано регуляторну політику ЄС, навігаційні інструменти такої політики. Досліджено причини низької ефективності державної регуляторної політики в Україні та заходи щодо поліпшення ситуації, які здійснюються останнім часом. Визначено шляхи підвищення якості регуляторних актів.

Висновки. Здійснення дієвої регуляторної реформи є необхідною умовою швидкого відновлення економіки України після війни. Доцільно організувати незалежну перевірку результативності найбільш важливих регуляторних актів з включенням експертів та консультативних фірм. Необхідно поліпшити зоротні зв’язки, оприлюднюючи плани заходів з відстеження результативності регуляторних актів та проектів відповідних змін. Важливим є запровадження компенсаційного підходу, коли введення нового регуляторного заходу має супроводжуватися скасуванням застарілих актів.

Ключові слова: державна регуляторна політика, державне регулювання економіки, дерегулювання, краще регулювання

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IMPROVEMENT OF STATE REGULATORY POLICY IN UKRAINE BASED ON INTERNATIONAL EXPERIENCE

**Topicality.** The system of state regulation that exists in Ukraine does not contribute to increasing the competitiveness of domestic enterprises, the introduction of innovations and the development of leading sectors of the national economy. At the same time, it creates a significant administrative burden on business. Repeated deregulation measures had only a temporary effect. In order to improve the regulatory policy in Ukraine, it is important to study the best global practices, primarily the experience of the EU.

**Aim and tasks.** The purpose of the article is to substantiate the measures aimed at improving the state regulatory policy based on the study of the best international experience and the situation in Ukraine.

**Materials and methods.** The following methods are used in the research process: comparative analysis, statistical analysis, system-structural approach. Normative acts of Ukraine and the European Union, official documents of the OECD, the State Regulatory Service of Ukraine, works of foreign and domestic scientists are used.

**Research results.** Changes in the state regulatory policy of developed countries in the 21st century are analyzed. It was found that in modern conditions the emphasis is not on the deregulation of certain markets, but on improving the quality of regulatory acts due to their evaluation throughout the entire life cycle: from drafting to revision. The necessity of assessing the actual impact of regulatory acts and the methodology of its implementation have been studied. It has been clarified how openness and transparency of regulatory policy, effective feedback in the regulatory process is ensured in developed countries. The EU regulatory policy, the most important tools of such policy are analyzed. The reasons for the low effectiveness of the state regulatory policy in Ukraine and the measures to improve the situation that have been implemented recently are studied. Ways to improve the quality of regulatory acts are identified.

**Conclusion.** Implementation of an effective regulatory reform is a prerequisite for the rapid recovery of Ukraine’s economy after the war. It is appropriate to organize an independent review of the effectiveness of the most important regulatory acts with the involvement of experts and consulting firms. Feedback should be improved by publishing action plans for tracking the effectiveness of regulatory acts and draft reports. It is important to introduce a compensatory approach, when the introduction of new regulatory measures must be accompanied by the repeal of outdated acts.

**Keywords:** state regulatory policy, state regulation of the economy, deregulation, better regulation

Problem statement and its connection with important scientific and practical tasks. Effective state regulation is a necessary condition for the dynamic development of the modern economy, increasing its competitiveness. However, the existing regulatory system in Ukraine has a number of shortcomings and does not ensure the formation of a business environment favorable to investment and innovations. At the same time, it creates significant administrative burden on business. There are more than a thousand instruments of state regulation, many of which are outdated and ineffective. Currently, deregulation is actively being carried out in Ukraine. However, it should be taken into account that relevant measures have been implemented several times in the past, but did not have the desired effect. In order to improve the regulatory system in Ukraine, a careful analysis of the best world practices, especially the EU experience, is very important. The search for new approaches is especially relevant in modern conditions, when Russian aggression has led to a deep economic crisis. Establishing an effective regulatory system is one of the prerequisites for the rapid recovery of the domestic economy after the war.

Analysis of recent publications on the problem. The status of state regulatory policy in the field of economic activity, the issues of increasing its efficiency in Ukraine was studied by domestic scientists: L. Vdovichenko (Vdovichenko, 2015), K. Krychenko (Krychenko, 2019), I. Kolupaeva (Kolupaeva, 2013), G. Razumova (Razumova, 2021), O. Yuldashev (Yuldashev, 2005) and others.

Allocation of previously unsolved parts of the general problem. Their works insufficiently analyzed the modern experience of developed countries and lacked effective recommendations for improving the regulatory system in Ukraine.

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1 The term “state regulatory policy” will be used below.
Formulation of research objectives (problem statement). The purpose of the article is to substantiate the measures aimed at improving the state regulatory policy based on the study of the best international experience and the situation in Ukraine.

Materials and methods. The following methods are used in the research process: comparative analysis, statistical analysis, systemic-structural approach, normative acts of Ukraine and the European Union, official documents of the OECD, the State Regulatory Service of Ukraine, works of foreign and domestic scientists are used.

An outline of the main results and their justification. The system of state regulation of the economy, created in developed countries after the Second World War, played an important role in the recovery and development of their economies. However, in a number of cases, state regulation was introduced unnecessarily, negatively affecting the economy. The costs of regulation are significant. In 1995 annual expenditures on federal regulation in the USA was estimated at $668 billion, or 9.2% of GDP. (Kip Viskusi et al, 2004, p. 77-78). True, a quarter of these costs are related to redistribution of income (setting minimum wages, etc.). However, most of them are irreversible losses for public welfare. Thus, the costs of preparing documents and working with them amounted to 218 billion dollars.

The deepening of crisis phenomena in the economy in the 1970s and early 1980s led to a significant change in the economic policy of developed countries. In the USA, the freight trucking, air and railway transport, communications, financial sector were deregulated. If in 1977 fully regulated industries accounted for 17% of this country's GDP, then in 1988 it was 6.6% (Kip Viskusi et al, 2004, p.384-385). According to some calculations, only due to deregulation transport consumers in the US save $60 billion annually (Kip Viskusi et al, 2004, p. 76).

Deregulation was actively implemented in other countries as well. Deregulation of the air transport market in the EU in the 1990s led to a significant reduction in tariffs and an increase in traffic. In France, the licensing of cargo transportation was abolished. As a result, tariffs decreased, and employment in this sector increased significantly.

However, in some cases deregulation did not have the expected effect. Moreover, certain measures to deregulate the financial sector contributed to the deepening of the 2008-2009 crisis. Countries that have built a regulatory system that minimizes the risk of adopting ineffective acts have been most successful. One of the most effective tools for achieving this is regulatory impact analysis (RIA). This is a formalized process of reviewing draft regulations to ensure that regulatory measures are adopted only when the benefits outweigh the costs.

Public policy was influenced by the works of some scientists. Thus, in 1998, N. Hunningham and P. Grabovsky put forward the concept of "smart regulation". It is proposed to increase the efficiency of regulation, first of all, due to the active involvement of stakeholders in this process. To do this, it is necessary to consult with them in the process of preparing new acts, actively use business self-regulation mechanisms, delegating certain powers to non-governmental structures. In addition, it is advisable to simplify regulatory requirements (Gunningham & Grabosky, 1998).

Since the 1990s, the Organization for Economic Cooperation and Development (OECD) have been developing recommendations in the field of state regulatory policy. In 2012, previously developed recommendations were updated and summarized in the Recommendations of the Council on Regulatory Policy and Public Administration (OECD, 2012).

The Recommendations identify the 12 most important directions for improving the quality and efficiency of regulation:

1) The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, distributional effects are considered and the net benefits are maximized;

2) Adhere to principles of open government, including transparency and participation of the stakeholders in the regulatory process. Governments should ensure that regulations are comprehensible and clear and that parties can easily understand their rights and obligations.

3) Establish mechanisms and institutions to actively provide oversight of regulatory policy procedures and goals, support and implement regulatory policy, and thereby foster regulatory quality

4) Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals;

5) Conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals.

6) Regularly publish reports on the performance of regulatory policy and reform programmes and the public authorities applying the regulations.

7) Develop a consistent policy covering the role
and functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence;

8) Ensure the effectiveness of systems for the review of the legality and procedural fairness of regulations, and of decisions made by bodies empowered to issue regulatory sanctions. Ensure that citizens and businesses have access to these systems of review at reasonable cost and receive decisions in a timely manner;

9) As appropriate apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective.

10) Where appropriate promote regulatory coherence through co-ordination mechanisms between the supra national, the national and sub-national levels of government.

11) Foster the development of regulatory management capacity and performance at sub national levels of government.

12) In developing regulatory measures, give consideration to all relevant international standards and frameworks for co-operation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction.

Developing the ideas outlined in the Recommendations, the OECD has prepared a number of important documents: Regulatory Impact Assessment, OECD Regulatory Enforcement and Inspections Toolkit and others. It is of particular importance study Reviewing the Stock of Regulation (OECD, 2020). It notes that even when regulations are scrutinized before they are introduced, not all of their consequences can be predicted. In addition, markets, technologies, and people's behavior patterns change, and some rules may not achieve their goal in a few years. Therefore, an integral part of the regulatory process should be ex post facto evaluation system.

The main questions to be answered in such an assessment are whether a valid rationale for regulating still exists (appropriateness); whether the regulation actually achieves the objectives for which it was introduced (effectiveness); whether regulations give rise to unnecessary costs or other unintended impacts (efficiency), and whether modifications to regulations, or their replacement by alternative policy instruments, are called for.

The actual impact assessment is usually carried out in the department responsible for the relevant direction. However, in such cases, a conflict of interest may arise. It is especially important to ensure independent verification of regulatory acts that significantly affect the economy and social sphere or for which there are data on existing problems. In half of the OECD members, there are government bodies responsible for conducting ex post facto regulatory assessments. They control the conduct of such assessments in departments, and in some cases conduct them independently or create special working groups.

Verification of existing rules is more difficult to organize than project evaluation. There is a risk that review rules, even if introduced, will be enforced formally. Therefore, the support of political leaders is necessary to create an effective system of ex post facto evaluation. However, it does not exist everywhere. Many governments operate on a "set and forget" basis.

The current EU documents do not talk about deregulation, but about better regulation. This is not just a change in terminology. The EU leadership is not seeking a one-off review of regulations, but rather a system in which regulatory measures are reasonable, well thought out and bring tangible benefits to citizens, businesses and society as a whole. The European Commission has produced the Better Regulation Guidelines, which provide guidance to Commission staff, and the Better Regulation Toolbox, which provides detailed guidance on how to apply each tool.

Regulatory impact assessment (RIA) is a key regulatory management tool in the EU. Particular attention is paid to RIA at the EU level. The European Commission publishes an initial impact analysis, which sets out the policy issues and a preliminary assessment of the expected actions. Following consultations with stakeholders, the Commission carries out a full RIA, including data and evidence collection and public consultation. The report is subject to review by the Regulatory Scrutiny Board, an independent body within the Commission. It consists of a chairman and six members appointed by the European Commission for a three-year non-renewable term. The chairman and three members are part of the Commission's services. The other three members are recruited from outside the Commission.

If the opinion of the Regulatory Scrutiny Board is positive, the European Commission may proceed with the initiative, but must take into account the recommendations. In case of a negative opinion, it is necessary to revise the proposals and submit a revised RIA to the Board.

The compensatory approach is used to reduce regulatory costs. In the UK, the "1-in, 1-out" principle was introduced in 2011, which stipulated that the introduction of new regulatory measures should be accompanied by an equivalent reduction.
In administrative burden through the repeal of existing acts. Later, the "1-in, 3-out" principle was introduced. The compensatory approach is also used in Germany, France and some other countries.

Great importance is attached to ensuring openness and transparency through consultations with stakeholders and the public when preparing new proposals, as well as when conducting a "fitness check" of existing legislation. A broad discussion can help to prevent negative consequences, identify alternative measures that can achieve the stated objectives at a lower cost, and prevent projects promoted by lobby groups from being adopted.

Most EU countries have invested heavily in the creation of online government portals that allow for better communication with stakeholders in the when drafting legislation. At the same time, traditional forms are also actively used - formal and informal consultations, hearings, etc.

It is very important that respondents know to what extent their input was taken into account and understand why some proposals were not taken into account. For example, on the portal of the Government of the Slovak Republic all draft laws and accompanying RIAs are published. All proposals are displayed on the website. They can be submitted either as individual comments or as "collective comments", which individuals or organisations can use to express their support. If a comment receives the support of 500 individuals or organisations, the government is obliged to provide a written response to it, explaining to what extent the suggestions have been taken into account or why they have not been taken into account. A summary of the comments received, together with information on the extent to which they have been taken into account, is published on the portal.

In 2019, the OECD published a fundamental report Best Regulation in the EU (OECD 2019), which analysed the use of regulatory policy instruments in EU countries and at the EU level. While noting a significant improvement in the quality of such policies in recent years, the study also points to shortcomings.

In 2015, the European Commission introduced consultations at the early stages of policy development. However, in most countries, such consultations begin after the decision to regulate has been made and the preferred option selected. This deprives stakeholders of the opportunity to propose other policy options. Member States rarely use annual plans, roadmaps or similar tools to inform the public in advance of upcoming consultations on new proposals.

The RIA process usually starts after the proposals have been developed. Alternatives to proposed regulatory options are not always identified and assessed. Member States rarely use threshold tests to determine the depth of regulatory impact assessment based on the significance of the regulation. Consequently, the RIA may be inadequate for the expected impact of the regulation. Many EU Member States do not carry out ex-post assessments of regulations. They have yet to develop effective systems for reviewing existing regulations.

In 2003, Ukraine adopted the Law "On the Principles of State Regulatory Policy in the Field of Economic Activity". It provides for mandatory RIA for regulatory acts developed at all levels of government. In order to receive comments and proposals, drafts of such acts are made public, consultations are held with entrepreneurs and public associations. However, there is no effective mechanism for taking their opinions into account. The law provides for tracking the effectiveness of regulatory acts based on quantitative and qualitative indicators. However, it is carried out only for a part of such acts, and most reports are formally prepared and do not allow to conclude whether the act has achieved its objectives. As a result, outdated regulatory acts remain in force.

Deregulation is currently underway in our country. The Interdepartmental working group on issues of accelerated review of instruments of state regulation of economic activity recommended to cancel a number of such instruments, and to change or digitize others.

At the same time, the authorities realized that they could not limit themselves to another deregulation campaign, but should implement regulatory reform and significantly improve the quality of regulation. Recently draft amendments to the Law "On the Principles of State Regulatory Policy in the Field of Economic Activity" were published on the website of the State Regulatory Service (SRS).

It is envisaged to create a Regulatory Portal where draft regulatory acts, RIAs, performance tracking reports and other documents should be posted. It is planned that the drafter of a regulatory act will be obliged to draw up a protocol for reviewing comments and proposals, publish it on the Regulatory Portal, and submit it to the SRS along with the draft of the relevant act. It is proposed to introduce strict control over effectiveness tracking measures: if they are not implemented within the established timeframe, the regulatory act will be suspended.

The above-mentioned Law currently does not apply to the activities of a number of regulators:
However, these proposals fail to address a number of problems. It is advisable that regulatory authorities approve and publish not only action plans for the preparation of their draft regulatory acts, but also action plans for tracking their effectiveness. In order to improve the quality of reports on tracking the effectiveness of regulatory acts, it is advisable to publish their drafts on the Regulatory Portal for comments and proposals. Minutes of consideration of comments and proposals should also be made public and submitted to the SRS along with the relevant report.

Regulatory bodies are not always interested in reviewing their own acts, even when they lead to unnecessary costs. It is important to arrange for an independent review of regulations that have a significant impact on the economy and welfare or for which there is information about existing problems. It is proposed to entrust the SRS to monitor the effectiveness of such acts with the involvement of experts and consulting firms.

It is proposed to use a compensatory approach in Ukraine. The introduction of new regulatory acts that impose additional costs on entrepreneurs for their implementation should be accompanied by the cancellation or adjustment of other regulatory acts, which should ensure a reduction in the relevant costs in the amount of twice the amount of costs associated with the new regulation.

Improving regulatory policy is essential for Ukraine's rapid post-war recovery. This cannot be limited to deregulation measures and improving the quality of existing regulations. It is necessary to move to selective regulation. Selective regulation of the development of commodity markets is a targeted impact of the state on certain sectors (growth points) or gaps in commodity and financial flows in the systems of vertically adjacent commodity markets (Burkynskyi et al., 2022, p.13). It is advisable to introduce regulation in certain areas where it is not currently in place. This primarily concerns the activities of retailers. It is necessary to prohibit unfair trade practices by implementing the provisions of EU Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain into domestic legislation. When exercising government influence on growth points, it should be borne in mind that the most effective measures are those that do not restrict competition but promote its development: support for clusters, business incubators, venture funds, etc.

**Conclusions and perspectives of further research.** In the 21-st century, the regulatory system of developed countries has undergone significant changes. In modern conditions, the emphasis is not on deregulating certain markets, but on improving regulation and building a system that ensures that all measures are justified, well thought out and bring significant benefits to society. Improving the quality of regulatory acts is achieved primarily through the introduction of their assessment throughout the entire life cycle. The regulatory impact assessment is carried out during the drafting process. After a regulatory act is adopted, its actual impact is periodically assessed. The results of such an assessment may serve as a basis for revising or cancelling the existing regulation. Much attention is paid to ensuring openness and transparency of the regulatory policy and establishing effective feedback in the regulatory process. Government online portals, as well as formal and informal consultations, hearings, etc. are used for this purpose.

The current system of state regulation of the economy in Ukraine is highly imperfect. The periodic deregulation measures that are implemented have only a temporary effect. It is necessary to carry out regulatory reform, to create a system that minimizes the risks of adopting acts that are ineffective or promoted by lobby groups. Regulatory bodies are not always interested in reviewing their own acts, so it is important to organize an independent review of acts that have a significant impact on the economy and welfare or for which there is information about existing problems. It is necessary to ensure transparency of regulatory activities and to promote the involvement of the public and the business community in the preparation of proposals. A compensatory approach is advisable: the introduction of new regulatory measures should be accompanied by a reduction in the administrative burden by cancelling outdated acts.

In order to accelerate Ukraine's post-war revival, it is necessary to move to selective regulation. Along with measures to improve the quality of regulations and eliminate unnecessary costs, it is advisable to introduce regulation in some areas where it is not currently in place. This primarily concerns the activities of retailers. It is also necessary to target the state's influence on growth points by supporting clusters, business incubators, venture funds, etc.
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