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REGULATORY ENVIRONMENT OF BUSINESS ACTIVITIES IN UKRAINE

The **subject** of this study is the tools used by the state that create the regulatory environment for business activities in Ukraine. The **goal** of the article is to analyse the regulatory environment of Ukrainian enterprises, to reveal the conditions in which they operate on the basis of the study of legal regulations and requirements as well as on international ratings based on social surveys of Ukrainian society. **Objectives:** to review the regulatory environment, to study the status of the permitting system, the control system (inspections), technical regulation, the tax system and legislative acts. General scientific **methods** used are: methods of empirical research (observation, comparison, visual-graphic methods), method of system analysis, induction, deduction, specification. The following **results** are obtained. Regulation can be defined as the policy of influence based on understanding the nature of the object to which the regulation is directed, and on the well-defined perspective of the image of this object, which is planned to be achieved with the help of certain regulators. The main such regulator of activity of business entities is the state. Considering Ukraine's place in the rating study of the International Finance Corporation of the World Bank "Doing Business – 2017", the main conditions of business practices of Ukrainian enterprises and the state's influence on business environment have been researched. Although Ukraine's place in the rating has risen one point (the 80th place) compared to the previous year, according to certain parameters our state significantly lags behind both leading and neighbouring countries. This includes, in particular, obtaining building permission, difficulties in closing down of business and global commerce. Ukraine even did not find itself in top hundred according to these parameters. However, in such areas as permitting system, inspection system, technical regulation there are significant changes aimed at simplifying basic procedures and reducing regulatory pressure. **Conclusions.** Despite these innovations, there still exists bureaucracy, frequent changes in legal regulations and requirements and their imperfections in general. As a result, corruption and shadow economy still affect Ukrainian enterprises. The reduction of overregulation of domestic enterprises activities should become one of the main measures for creating optimal conditions for business in Ukraine.

Keywords: enterprise, regulation, permitting system, legal system, licensing, taxation system, inspection system, technical regulation..

Introduction

Any organization is situated in an environment and functions if the environment makes it possible. To determine the organization's behavior the management of the organization should know both the internal and external environment of the organization, its potential and trends of development, and the place of this organization within the environment.

Modern joint-stock companies of Ukraine have difficulties in stable economic growth under the overregulation of entrepreneurship which results in restraining competition, increasing pressure on business structures and factoring into the spread of shadow economy and corruption.

Creating an adequate and rational climate for the development of joint stock companies is one of the main ways of ensuring Ukraine's economic growth and radical changing the philosophy of doing business in our country.

Analysis of literary sources and problem statement

Scientific researches of the specifics of enterprises' activities were conducted by such scientists as O.M. Vakulchik, V.A. Yevtushevsky, V.A. Kublkov, M.P. Malskaya, J. Keynes, I.M. Posohov, V. Stezher, D. Lukyanenko, A. Mozgovy. The works of these scholars highlight challenges and contradictions of economic globalization, effects of the expansion of foreign transnational corporations, problems of the state economic security.

The external environment of a joint-stock company should also be considered. One of the main stakeholders which influences the activity of a joint-stock corporation is the state that is the regulatory environment for its

activity. Considering the regulatory environment of joint stock companies, it is important to note that, as a rule, a joint-stock company can not affect it. In this case, a joint stock company is the subject of the regulatory system influence, and, although state regulation is considered as a process of bilateral interaction between business and state, the impact of individual business on the state is significantly limited. It makes the state create such business conditions that ensure appropriate normative, legal and institutional coverage and optimal regulatory pressure on business entities.

Tasks and objectives of the study

Focusing on the problems of economic development of Ukrainian joint-stock companies, it is important to understand the factors of influence of the regulatory environment on their activities. The purpose of this study is to analyze the regulatory environment of Ukrainian business entities, and to disclose the conditions in which they operate.

Materials and methods of research

In order to achieve this goal, the results of international rating assessments are used, the analysis of domestic legal system as well as the pressure of the main supervisory authorities on the activities of Ukrainian enterprises is conducted.

Research results

Activities of a modern joint-stock company depend on the factors of the regulatory environment.

The term "regulatory environment" is defined as:

- legislative and normative business rules;
- the ability of the authorities to ensure the implementation of law and strictly keep within the law in its own activities;
- the effectiveness of the management system through the society prism: the degree of transparency and consistency of the state regulatory policy; the level of bureaucracy and corruption.

John M. Keynes, an English economist, specified the need for the state regulation of the market economy. In his work "The General Theory of Employment, Interest and Money" he developed a new direction in the economy, examined the aggregate economic factors – aggregate demand, aggregate supply, consumption, accumulation of savings, investments, employment, etc. He tried to establish the cause-effect relationships between them.

Nowadays the term "state regulatory policy" becomes as widespread as "state regulation". According to the Law of Ukraine "On the Principles of the State Regulatory Policy in the Sphere of Economic Activity", the state regulatory policy in the field of economic activity is a direction of the state policy aimed at improving the legal regulation of economic relations, as well as administrative relations between the regulatory bodies or other bodies of the state power and business entities, at preventing the adoption of economically inappropriate and ineffective regulatory acts, at reducing the state interference in the activities of business entities, and at removing obstacles for the development of economic activity, that is performed within, in the order and in the manner established by the Constitution and the laws of Ukraine.

The main components of the regulatory influence of the state on the development and activities of entrepreneurship and the business environment are permitting system, inspection system (audits), technical regulation (certification and standardization), taxation system, legislative acts.

With regard to improving the processes of permitting and registering enterprises at the legislative level, positive changes took place. Today in Ukraine there

is significant liberalization of permitting regulation of economic activity, reduction of the list of permitting documents, reducing the cost of permitting documents, creation of single permitting centers and simplification of permitting procedures that have a positive effect on the business environment of economic entities and the investment climate of the country [47, p. 228].

There is a list of laws that are important for business environment in Ukraine: the Law of Ukraine "On Permitting System in the Sphere of Economic Activity" adopted on September 6, 2005, the Law of Ukraine "On the List of Permitting Documents in the Sphere of Economic Activity", adopted on May 19, 2011 [2], the Law of Ukraine "On Licensing Types of Economic Activities", adopted on March 2, 2015.

However, frequent changes in legal system, the lack of efficiently operating permitting centers, the complexity of permitting procedure and the steady growth of both the number of permits and activities that are subject to licensing. Thus, at the moment of its adoption the Law of Ukraine "On Licensing Types of Economic Activities" established 30 types of economic activities out of 33 ones that are subject to licensing according to the latest changes in legislation. Similarly, according to the Law of Ukraine "On the list of Permitting documents in the Sphere of Economic Activity" initially 135 documents were included in the list of permitting documents, while today 138 documents out of 143 ones are included into the list.

These findings are confirmed by the results of the annual rating study of the International Finance Corporation of the World Bank Group "Doing Business – 2017", according to which Ukraine's place in the rating has risen one point (from the 81st to the 80th). Only 2 out of 10 main components of the study – "The Protection of Minority Investors" and "The Enforcement of Contracts" – were referred to as positive changes. All other changes actually took place due to the changes in the ranking methodology and dynamics of other countries.

Despite the obvious progress in the reform of the permitting system, Ukraine is the 140th in the world as for the obtainability of construction permits (see fig. 1).

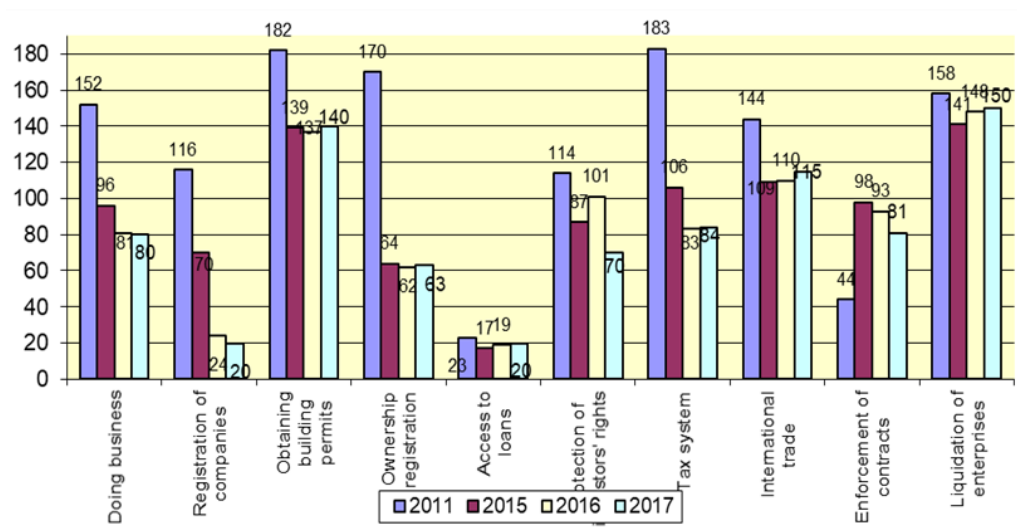


Fig. 1. Ukrainian economic survey conducted by the World Bank Group "Doing Business"

Despite the fact that the procedure for registration of business entities in Ukraine is simplified, post-registration procedures are troublesome and long-term. Bureaucracy and delinquency that hinder the development of entrepreneurship and cause abusive activities have not been eliminated yet.

Ukraine ranks the 140th place out of 190 ones in obtaining construction permits. To obtain all permits for the construction of a warehouse in Kiev, a company must carry out 10 procedures, which last 65 days on average, and their cost is 15.2% of the cost of the construction of the warehouse by contrast with Georgia where only 7 procedures that last 48 days and cost just 0.2% are required [14]. Although according to the number of procedures and time required for their accomplishing Ukraine's indices correspond to the best world practices, their cost significantly exceed the regional level. For comparison, in leading European countries, the cost of the procedures required to obtain a permit for the construction of a warehouse does not exceed 2% of its cost [14].

For quality control Ukraine received 8 points out of 15 possible. At the same time, the study notifies the absence of effective quality control in Ukraine before construction (the analysis of correspondence of building plans to the existing building regulations) and professional certification of specialists who check architectural plans and those who manage construction on the ground.

Regarding the system of inspections of business entities, the pressure of supervisory bodies has decreased. An important step in reforming the system of inspections

is the adoption of such laws as: "On Amendments to the Law of Ukraine "On the Basic Principles of State Supervision (Control) in the Sphere of Economic Activity Regarding the Liberalization of the System of the State Supervision" adopted on November 3, 2016, and "On Temporary Peculiarities of the Implementation of the State Supervision Measures (Control) in the Sphere of Economic Activity" adopted on November 3, 2016.

These laws suspend the implementation of planned inspections conducted by supervisory bodies until 31.12.2017, introduce the presumption of a business entity legality, limit the maximum duration of scheduled inspections and establish the limitation of their frequency, introduce the integrated open database containing information about planned inspections as well as about the ones that have been performed.

Compared to 2011, the State Audit Office conducted 70% fewer audits during 2015 (fig. 2).

Also, a number of inspections conducted by the State Fiscal Service has decreased. In 2016, the State Fiscal Service conducted 3,178 inspections fewer than in 2015 [49]. The number of control and verification actions conducted by the National Commission of Paper and Stock Market in 2016 decreased up to 35 ones due to the moratorium on conducting inspections of stock market participants. Consequently, all inspections were unscheduled and carried out grounding on the warrants of investigators of law enforcement agencies, court orders and at the request of the subject of verification.

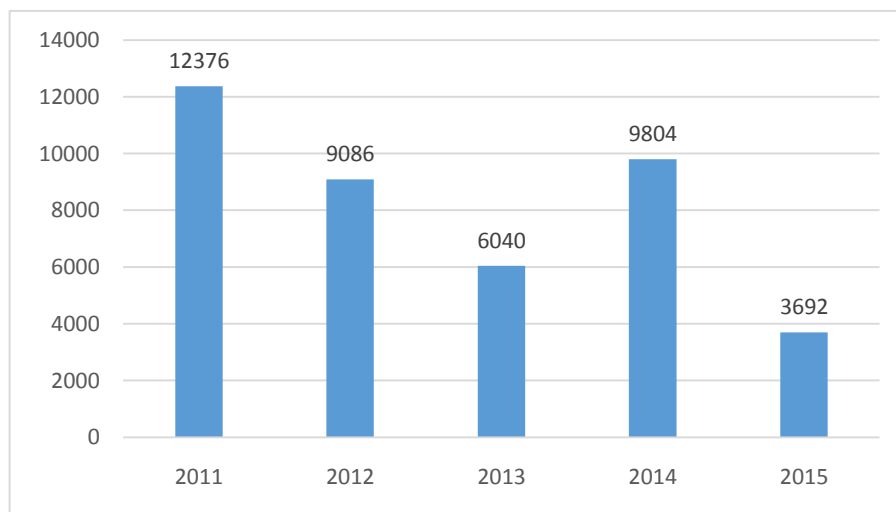


Fig. 2. The dynamics of auditing financial and economic activity conducted by the State Service bodies

Ukraine has signed the Association Agreement with the EU and obliged to correspond to the EU technical regulations and standards, systems of accreditation, assessment of the EU correspondence and market surveillance, as well as to adhere to the principles and practices specified by the EU relevant decisions and regulations. Therefore, today Ukraine has great opportunities as for entering single European market.

Nowadays, the system of technical regulation of the European Union is the most effective for international cooperation, which creates favorable conditions for free circulation of products and restricts government interference into the economic activity of enterprises,

while ensuring product and service safety and appropriate informing consumers about product properties, which was achieved by technical harmonization of legal systems and mutual recognition on the basis of new approach to product regulation and global approach to conformity assessment.

Today, Ukraine has created the legal and regulatory framework that introduces the new system of technical regulation corresponding to the key principles of technical regulation system in accordance with the European Law and the Agreement on Technical Barriers to Trade. This was largely facilitated by the Law of Ukraine "On Technical Regulations and Conformity Assessment"

adopted on January 15, 2015. Important innovations of this law are: abolition of mandatory certification of products (starting from January 01, 2018); introduction of the registry of products conformity certificates; arrangement of appointing conformity assessment bodies.

As agreed in the Association Agreement with the EU, Ukraine is gradually implementing a set of European standards as national standards, while abolishing conflicting national standards. In 2016-2017, four lists of national standards (1704 standards), which are identical to harmonized European standards and which provide the presumption of correspondence of equipment to the requirements of technical regulations were approved. The National Standards Fund includes 21 706 national standards, 12 266 of which are international and European standards adopted as national ones. The level of harmonization with international and European standards is 56.5%.

In the rating "Doing Business – 2017", the overall score of Ukraine decreased by 0.27% according the sub-index "Paying Taxes" which resulted in the fact that Ukraine sank in the scale (one position lower). Due to the taxation reform in Ukraine, the level of tax burden, as well as the amount and duration of payment, is gradually reduced.

In 2016 entrepreneurs in Ukraine spent 355.5 hours and 51.9% of their income to pay 5 tax payments per year. The average regional indicators are 17.6 of taxes, 221.5 hours and 33.8% of income [14].

However, it should be noted that there are constant changes in the taxation law regarding the specifics of taxes, fees and penalties, reporting and obtaining benefits. Each calendar year begins with the introduction of changes that directly affect the activities of a company within the coming year. Another negative factor in the taxation system of Ukraine is the spread of corruption in the activities of tax authorities.

In the area of annual tax liability the global anti-corruption non-governmental organization *Transparency International* (TI) has noted the increase in corruption. Thus, in the rating prepared by TI for 2015, according to the level of corruption Ukraine ranked the 130th position out of 168 ones. According to the results of the ranking, where the level of corruption is scaled from 0 to 100, and where 0 means the total corruption of the state, and 100 is the absence of corruption, Ukraine received 27 points.

In 2016, Ukraine's score was 29 points and its place was the 131st in the ranking, which is a very low result for the country that declares reducing corruption as a major

priority. Any result fewer than 30 points according to *Transparency International* is considered "a shame" for a nation which has to live in a totally corrupt country. Ukraine succeeded in improving the index due to the increased public disapprove of corrupt officials, creation of anticorruption bodies, and introduction of electronic declarations. The impunity and inefficiency of legal system, especially the judicial system, have a negative effect on the results of Ukraine.

Corruption affects all spheres of the economy of Ukraine, provokes massive shadowing of the economy, which, in turn, is the economic basis for corrupt connections. According to the formal statements of government officials, the share of the shadow economy in Ukraine actually coincide with the official one and is now 45–60%.

Discussion of results

The efficiency of business sector greatly depends on the state policy regarding support and regulation aimed at information support of the regulatory framework, at creating the optimal tax burden, etc. The analysis showed that a significant legal liberalization aimed at improving business conditions takes place in the main spheres of the regulatory environment of Ukrainian enterprises during the last five years. There is the reduction of regulatory objects, the decrease of the amount of required documents, inspections, necessary procedures. However, despite these improvements, Ukraine is far behind the global understanding of the simplicity of doing business due to difficulties in obtaining permits for construction, closing an enterprise and trading on the international level. Additional difficulties that are specific for Ukraine are corruption and shadow economy.

Conclusion

Enterprises in Ukraine have to overcome a lot of difficulties in order to improve their performance and become more competitive on the domestic and foreign markets. The role of the state is to help them by reducing regulatory pressure and simplifying business procedures. At present, the government struggle to improve the situation, but due to the overregulation of enterprises in Ukraine it is too difficult to implement innovations or to sustain growth and investment attractiveness as a lot of time, forces and financial resources are spent on bureaucratic procedures, great workflow and corruption.

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РЕГУЛЯТОРНЕ СЕРЕДОВИЩЕ В ДІЯЛЬНОСТІ ПІДПРИЄМНИЦЬКИХ СТРУКТУР УКРАЇНИ

Предметом даного дослідження є інструменти, що використовуються державою та створюють регуляторне середовище функціонування підприємницьких структур України. **Метою** статті є аналіз регуляторного середовища діяльності українських підприємств, розкриття умов, в яких вони функціонують, на основі дослідження законодавства та міжнародних рейтингів, побудованих на основі соціальних опитувань українського суспільства. Основними **завданнями** є розгляд регуляторного середовища, вивчення стану дозвоільної системи, системи контролю (перевірок), технічного регулювання, податкової системи та законодавчих актів. Використовуються загальнонаукові **методи**: методи емпіричного дослідження (спостереження, порівняння, візуально-графічні методи), метод системного аналізу, індукція, дедукція, конкретизація. Отримано такі **результати**. Регулювання можна назвати політикою впливів, що народжується зі знання природи об'єкта, на який спрямоване регулювання, та з чіткого бачення образу цього об'єкта, який планується досягти за допомогою певних регуляторів. Основним таким регулятором діяльності суб'єктів господарювання є держава. Розглядаючи місце України в рейтинговому дослідженні Міжнародної фінансової корпорації групи Світового банку "Ведення бізнесу - 2017" (Doing Business 2017), досліджено основні умови функціонування українських підприємств та вплив держави на середовище їх діяльності. Хоча місце України у рейтингу покращилось на одну позицію (80 місце) порівняно з минулим роком, за певними параметрами наша держава суттєво відстає не тільки від лідерів, але і від країн-сусідів. Це зокрема, отримання дозволів на будівництво, складність процесу ліквідації підприємства та здійснення міжнародної торгівлі. Це складові, за якими Україна не потрапила навіть у першу сотню рейтингу. Проте у таких сферах як дозвоільна система, система контролю, технічне регулювання спостерігаються суттєві зміни спрямовані на спрощення основних процедур та зменшення регуляторного тиску. **Висновки**. Незважаючи на ці нововведення, все ще присутні бюрократизм, часті зміни в законодавстві та в цілому його недосконалість. В результаті функціонування підприємств України продовжує ускладнюватись наявністю корупції та тіньової економіки. Для створення оптимальних умов для введення бізнесу в Україні одним з основних заходів повинне стати зменшення зарегульованості діяльності вітчизняних підприємств.

Ключові слова: підприємство, регулювання, дозвоільна система, законодавство, ліцензування, податкова система, система контролю, технічне регулювання.

РЕГУЛЯТОРНАЯ СРЕДА В ДЕЯТЕЛЬНОСТИ ПРЕДПРИНИМАТЕЛЬСКИХ СТРУКТУР УКРАИНЫ

Предметом данного исследования являются инструменты, используемые государством, и которые создают регуляторную среду функционирования предпринимательских структур Украины. **Целью** статьи является анализ регуляторной среды деятельности украинских предприятий, раскрытие условий, в которых они функционируют на основе исследования законодательства и международных рейтингов, построенных на основе социальных опросов украинского общества. Основными **задачами** являются рассмотрение регуляторной среды, изучение состояния разрешительной системы, системы контроля (проверок), технического регулирования, налоговой системы и законодательных актов. Используются общенаучные **методы**: методы эмпирического исследования (наблюдение, сравнение, визуально-графические методы), метод системного анализа, индукция, дедукция, конкретизация. Получены следующие **результаты**. Регулирование можно назвать политикой воздействий, которая рождается из знания природы объекта, на который направлено регулирование, и с четкого видения образа этого объекта, который планируется достичь с помощью определенных регуляторов. Основным таким регулятором деятельности субъектов хозяйствования является государство. Рассматривая место Украины в рейтинговом исследовании Международной финансовой корпорации группы Всемирного банка "Ведение бизнеса - 2017" (Doing Business 2017), исследованы основные условия функционирования украинских предприятий и влияние государства на среду их деятельности. Хотя место Украины в рейтинге улучшилось на одну позицию (80 место) по сравнению с прошлым годом, по определенным параметрам наше государство существенно отстает не только от лидеров, но и от стран-соседей. Это, в частности, получение разрешений на строительство, сложность процесса ликвидации предприятия и осуществления международной торговли. Это составляющие, по которым Украина не попала даже в первую сотню рейтинга. Однако в таких сферах как разрешительная система, система контроля, техническое регулирование наблюдаются существенные изменения направлены на упрощение основных процедур и уменьшения регуляторного давления. **Выводы**. Несмотря на эти нововведения, все еще присутствуют бюрократизм, частые изменения в законодательстве и в целом его несовершенство. В результате функционирование предприятий Украины продолжает осложняться наличием коррупции и теневой экономики. Для создания оптимальных условий для ведения бизнеса в Украине одним из основных мероприятий должно стать уменьшение зарегулированности деятельности отечественных предприятий.

Ключевые слова: предприятие, регулирование, разрешительная система, законодательство, лицензирование, налоговая система, система контроля, техническое регулирование.

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