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GLOBAL TRENDS IN MODERNIZATION OF STATE REGULATORY METHODS AND TOOLS IN ECONOMIC RELATIONS

Abstract. In an inclusive society methods and tools of public administration in various spheres of legal relations, including the branch of economic relations, require modernization, particularly, in the direction of so-called deregulation. This means that the formation of state policy in the field of economic relations management should be conducted taking into account the private law interest of economic entities, as well as social and public interests, and based on the priority application of methods and tools of economic stimulation, other private law methods and models of public administration.

Therefore, the purpose of this study is to identify global trends for modernizing of methods and tools of state regulation in economic relations, to determine the extent of its prevalence in the domestic state regulatory policy and to elaborate proposals for the development of deregulation processes in Ukraine. The following tasks were fulfilled for the realization of the stated goal: the formation features of the state regulatory policy were determined, considering the modern conditions; the priority and efficiency of application of private law methods and tools of stimulation in the state regulation sphere in economic relations were substantiated; the proposals for modernizing of methods and tools of state regulation in economic relations in the domestic legal system were formulated. As a result of the research, the author came to the conclusion, that the main direction in modernizing methods and tools of state regulation in economic relations is the optimal combination of stimulation methods, that is, private legal methods and methods of direct management influence on economic entities.

Keywords: state regulation, state policy, economic relations, methods of regulation, private remedies, deregulation

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Introduction. The formation of internal and external policies in the field of economic relations and its regulation is one of the state functions. For this purpose, state authorities and institutions use appropriate methods and tools that, in their entirety, determine the type of state regulatory policy. Taking into account the current trends in the development of a socially oriented economy, state regulation in this area is increasingly characterized by a decrease in direct management and an increase in incentive effect on the activities of business entities. Meanwhile, the effectiveness of state regulation in economic relations is determined by the optimal combination of the above methods and tools.

Literature review and the problem statement. State regulation in economic relations is a broad concept, which includes legal, organizational, institutional and other tools by which state authorities and institutions carry out regulatory influence over economic entities in order to bring it into a condition, which correspond to the state policy. At the same time, the system of the particular methods and tools of state regulation in economic relations needs to be transformed depending on the social requirements and the specific historical, legal and political-legal conditions, in which the regulatory process takes place. In addition, the feature of economic relations sphere is characterized with conditions that such relations: firstly, cannot be developed in isolation from other legal relationships (social, labor, administrative); secondly, global trends have a significant influence on its development, as the components of economic policies of any country are both: internal and external economic policies. Therefore, the purpose of the proposed study is to identify global trends in the modernizing of methods and tools of state regulation in economic relations, to determine the extent of its prevalence in the domestic state regulatory policy and to elaborate proposals for the development of deregulation processes in Ukraine. The notion of "regulation" is considered in the scientific literature in a broad and narrow sense [Cafaggi, Janczuk 2010; Claassen 2016; Downs 1957; Sadun 2015]. In the context of this study, state regulation should be used in a broad sense, since this kind of state activity is inherently complex.

Therefore, on the basis of the scientific analysis of the concept of regulation in the broad sense, Stepanenko distinguishes three its types: 1) market self-regulation as a process of forming the proportions of economic development by market methods. It is believed that such market self-regulation of the economy optimally establishes the proportions of economic development, coordinating the structure of social needs and the structure of the social product; 2) state-administrative regulation of economic activity. This type of regulation of economic legal relations: firstly, is carried out by the state and its special authorities, and, secondly, is realized by purely administrative, administrative-economic or administrative-legal methods; 3) the combination of market and state regulation, which in practice, that is, in real life, is most often combined or complementary [Stepanenko 2016].

It is necessary to support the opinion of the scientist, since the legal nature of state regulation, as the main tool of ensuring legitimacy and legal order in society, foremost, lies in the regulatory influence on a specific sphere of social legal relations by establishing common rules (formation of law) and ensuring compliance with such rules by each subject of legal relationships (enforcement). In this regard, it is impossible to exclude the state from the sphere of regulation in economic relations completely. In particular, even in states, where economic relations are based on the free market principles, the state takes a fairly active part in the process of managing economic activity.

In Ukraine, the state policy is aimed at regulating the following main areas of economic relations: structural and sectoral policies aimed at implementing progressive changes in the structure of the economy by the state; investment policy; depreciation policy; policy of institutional transformation; pricing policy; antitrust-competitive policy; fiscal policy; tax policy; monetary policy; currency policy; foreign economic policy. In the social and economic sphere, the state implements a social policy of consumer protection, wage and income policy, employment policy, social security and social security policies [Economic Code of Ukraine 2003].

Thus, the state regulatory policy covers a significant number of legal relationships that arise in the socio-economic field. At the same time, the call and demand of today is reducing the direct management influence of the state on the segment of a market economy. According to some scholars, modernization changes in the country should be aimed at regulating social relations in a way that meets the needs and demands of society, towards the establishment of a stable order, the regulation of political relations, the introduction of mechanisms aimed at sustainable social development, progressive political dynamics, establishment of effective interaction between authorities and civil society institutions [Kovbasyuk & Golub 2013]. Other scholars argue that there is a direct cause-and-effect relationship between economic deregulation and economic growth in the state [Qichun 2011; Justin 2014].

Some foreign scholars raise questions about the interdependence of globalization and deregulation processes and conclude that this dependence is quite significant [Büthe 2010; Friedrich 2012]. At the same time, we need to accept that state regulation of the economy is its subjective factor. Therefore, its effectiveness resulted to how the state, in the process of fulfilling its regulatory functions, takes into account objective economic laws, and, above all, the laws of the market. In this sense, market laws create an objective boundary for state intervention in the economy. In other words, the market mechanism is a state non-interference sphere [Stepanenko 2016].

Consequently, in the current context of market economic relations development, methods and tools of state regulation need to be modernized by reducing the administrative influence on the participants of economic relations and increasing the importance of mechanisms of self-regulation. The role of the state in the current context should be aimed at creating legal barriers for abuse by economic agents of their position, as well as in protecting socio-economic, labor rights in relations with business entities, increasing economic fair competition, which should ultimately serve the purpose of building a socially oriented economy.

Research results. Principles of Formation of the State Regulatory Policy Owing Modern Conditions. Formation of state policy in the field of regulation of economic relations is based on certain principles, the most important of which are the proportionality and consistency of the state regulatory policy and the optimal combination of private and public interests. Adherence to these principles allows us to build consistent and coherent public policy in the area covered by the study, to take into account not just the private law interests of business entities as major players in the market, but also consumers of goods and services, social and public interests.

Thus, the principle of proportionality is an important element in the concept of the state based on the rule of law. It affects the limitation of the discretionary powers of executive authorities (administrative discretion). To this end, the principle of proportionality: ensures the flexibility of the application of legal tools in the public sphere; establishes the limits of authority interference in the interests of management objects; does not allow voluntarism and arbitrariness in the actions of executive authorities and their officials; promotes openness and transparency of their activities. Adherence to the principle of proportionality means the conceptually distinct application of methods of state coercion and coordination, which depend on the relations of power and subordination, and its focus on achieving a balance of interests limits the discretionary actions of the executive authorities with the interests and purposes of the common good (public interest), and

envisages taking into account interests, which need legal protection [Grin 2015]. At the same time, the private legal principles of economic legal relations are manifested in the formal equality of their participants and the relative freedom of their contractual regulation. In turn, the public-legal basis is present mainly in the operational-economic legal relations, i.e., where one of the participants is a public authority or another entity of power.

According to Bezukh, economic relations have a horizontal private character; their participants are legally equal in terms of the possibility of rights and obligations. At the same time, according to the scientist, the participants in relations in the field of economics are economically unequal. In the view of the scholar, the economic and social inequality of the participants in economic relations creates a distortion of legal equality and freedom of contractual relations in the economic sphere, substantially restricting them [Bezukh 2011]. And in this, some scholars believe that the relations of governance, including relations between economic entities and state authorities in the process of managing economic activities, are subject to the regulation of the Economic Code of Ukraine (hereinafter - EC of Ukraine) [Saniahmetova 2004]. This statement can be considered fair only if the subjects of such management have economic competence and directly carry out organizational and economic authority regarding the subject of economic activity (Article 4 of the EC of Ukraine).

The principle of proportionality in national law is a necessary component of the rule of law principle, without which the last one cannot fully fulfill its most important historical and modern functions - the protection and preservation of human rights and freedom. The principle of proportionality, including the balancing of interests, is the only mechanism with the rule of law in protecting human rights and freedom from the state and ensuring the fairness of legal regulation. This principle is significant for the implementation of other components of the rule of law principle (in particular, the limited discretionary power and legal certainty) [Yevtushenko 2015]. In the view of Lavrenyuk, with the help of the principles of economic law, there must be a combination of essentially opposing in its legal nature private and public interests, the simultaneous presence of which is a consequence of the complex nature of the economic law field. According to the scientist, it is important to correctly determine the presence of private or public interest in real legal relationships and finding the optimal correlation between them [Lavrenyuk 2017].

Khrimli has similar view, noting that the harmonious combination of private and public interests is the main task of legal regulation, since the right must ensure both - public and private interests, its combination in achieving a certain goal, and the contract allows the consideration of additional specific interests of the parties. Ignoring public or private interests in the field of business leads to negative consequences, and to radical changes in public life in the end [Khrimly 2016].

In general, concurring with shown above points of view, it should be noted that the balance of private and public interests should be expressed in practical terms in the form of a definite result. In the process of implementing state regulation in economic relations with the help of direct and indirect economic legal tools, this result is the provision of efficient use (distribution, expenditure) of public funds. The result is to ensure the effective use (distribution, expenditure) of public funds in the process of implementing state regulation in economic relations through direct and indirect economic and legal tools.

In the opinion of some scholars, the balance of interests can be possible in the case of legally equal participants in one or another relationship (for example, the interests of the

parties in the economic contract). In all other cases, the state, represented by its authorities, chooses the most optimal, in its opinion, methods (administrative or economic) to influence the economy and the behavior of business entities, depending on the particular interests – private or public – it intends to defend, and what norms of law – private or public – it should achieve these [Shcherbyna 2014]. Consequently, observance of the above system of principles, which includes such a principle as a combination of direct and indirect tools of state regulation of the economy, is a condition for ensuring the effectiveness of such regulation. Some scholars point out that achieving the principle of optimal balance of private and public interests is possible through the application of the general principle of proportionality [Lavrenyuk 2017].

Although this principle not directly enshrined in the EC of Ukraine, but follows from the content of some code rules. In particular: 1) from Part 1 of Art. 5 (optimal combination of market self-regulation of economic relations of entities and state regulation of macro-economic processes); 2) P. 7 p. 1 Art. 10 (budget policy aimed at optimization and rationalization of the formation of incomes and use of state financial resources, increase the efficiency of state investments into the economy); 3) Part 5 of Art. 11 (economic entities that do not take into account the public interests, reflected in the program documents of economic and social development, cannot be provided with advantages and benefits, which are set out under the law during economic activity), etc.

The principle of proportionality has been reflected in a series of EU documents. So, according to EU law, the legal principle of proportionality (expediency and conformity) means that, administrative actions must be proportionate to demanding, that is, they cannot require from citizens more than necessary to achieve the goal. The principle of proportionality is similar to the principle of rationality and also means that it is illegal to apply certain legislation in cases, where administrative actions can lead to consequences not provided for by law. Such a situation can be regarded as an abuse of administrative authority [Gonzjzh 2015]. Consequently, it is a question of proportionality (expediency) of state interference in the sphere of regulation in social relations, including economic and other legal relations. Therefore, it is fair to conclude that the principles of proportionality are only one of the elements of the optimality in state regulation through the combination of direct and indirect regulatory tools.

In addition, the principle of an equitable balance in the field of economic relations is the basis of some international acts. In particular, the European Social Charter states that the aim of the policy of the contracting parties, which they will introduce by all appropriate tools, both national and international, is to achieve the conditions under which such rights and principles can be effectively implemented, in particular: each person can be able to earn for life due the profession she/he freely chooses; all workers have the right to a fair remuneration that will provide a reasonable standard of living for them and their families; each low-income person has the right for social and medical assistance, etc. [European Social Charter 1996].

The International Covenant on Economic, Social and Cultural Rights establishes the obligation of States participating in this Covenant to recognize the right of everyone to a sufficient standard of living for him/her and his/her family, including adequate food, clothing and housing, and for the continuous improvement of living conditions. In addition, it is envisaged that the States participating in this Covenant, recognizing the fundamental right of everyone to freedom from hunger, should take the necessary measures

individually and in the framework of international cooperation, which would include specific programs in order to:

a) to improve methods of production, storage and distribution of food products through the wide use of technical and scientific knowledge, to achieve the most effective development and use of natural resources;

b) to ensure an equal distribution of world food supplies in accordance with the needs and problems of countries, both importing and exporting products [International Covenant on Economic, Social and Cultural Rights 1966].

Therefore, the obligation on States to ensure the protection of socio-economic human rights is an obstacle to the complete removal of the state from the process of regulating economic legal relations.

In the light of the foregoing information, we can conclude that the principles of proportionality of the state regulatory policy and the optimality of the combination of private legal interests of economic entities and public interests are interrelated and conditioned by the requirements of modern society. That is, the effect of these principles is aimed at building a balance between the socio-economic rights and interests of each individual and the economic needs of entities. Optimal Combination of Direct and Indirect Methods and Tools of State Regulation in Economic Relations. Characteristic features of organizational and economic authorities that allow to distinguish them from administrative and managerial ones, are their formation in the process of management (organization, regulation, control, management) of economic activity, implementation on the basis of property relations, are economic and managerial in nature and are "Vertical" relations [Lyubchenko & Berezdetsky 2013].

In turn, Bevez explains the distinction of organizational and economic from administrative and managerial authorities as follows: the relations, which appear exclusively in the process of economic activity management, aimed at achieving the goals of a particular entity, belong to organizational and economic relations, forming the sphere of economic relations. Then, when applying state regulation measures (administrative and managerial) of economic activity, the state authorities carry out certain functions of the state. On this basis, the scientist concludes that the management of economic activity, which is mediated by the system of organizational and economic relations, is carried out in relation to a specific subject of economic activity and the activity that is directly carried out by it [Bevez 2015].

Consequently, the application of legal restrictions and prohibitions, the state establishment of certain conditions for implementation of economic activity and the conclusion of economic contracts can be attributed to direct economic and legal tools of state regulation of economic activity. In turn, the introduction of incentives and support systems for economic entities have a clearly defined economic and legal nature, that is, they belong to the indirect tools of state regulation in economic legal relations.

Some scholars rightly point out that legal incentives and restrictions form a single system of interconnected, mutually supportive and mutually complementary elements that, from the standpoint of the theory of law, may be understood as legal instruments for regulating social relations in the field of economic activity, in order to establish a balance of private law and public-law interests in the specified sphere [Khrimli 2016]. The special scientific literature has repeatedly expressed the idea that the achievement of high results in the regulation of economic relations depends on the economic-management system,

adopted in a particular country, which is based on the optimal combination of private law and public-law legal principles of regulation.

In particular, Milash notes that the public-legal basis of economic law-and-order is created and supported by the expanded system of state regulation of economic activity of normative (legislative), administrative-executive and controlling character. However, in a market economy, economic law and order should be ensured through an organic combination of public-law and private-law principles of economic-legal regulation that allows an adequate and timely response to the transformation of economic turnover, and to ensure the realization of the whole spectrum of interests that arise and are realized within its boundaries [Milash 2014]. Other scholars point out that the state first faces the problem of finding the optimal combination of all regulatory methods rather than giving preference to obligations or prohibitions. Appointment of methods of administrative and legal regulation is to adequately reflect the content and structure of the market in the state regulatory acts, and thereby create a favorable legal space for the emergence, functioning and development of market relations [Nashinets-Naumova 2012].

Thus, we can agree with scientists' opinion about the necessity to look for the possibility of solving the problem of increasing the state regulation efficiency in the optimal combination of its methods and tools variety. At the same time, the basis for such a combination should be the approach, according to which economic relations, as well as other social relations, are based on the balancing of private and public interests. Owing to this fact, it is necessary to study the correlation of relevant interests issue in economic activity in more detail. Shcherbyna points out that the term "interest" is used in the Civil Code of Ukraine (hereinafter - the CC of Ukraine) and the EC of Ukraine. The difference lies in the fact that the legislator in the CC of Ukraine uses the term "interest", whereas as in the EC of Ukraine it basically operates the word "legal interest". At the same time, unlike the CC of Ukraine, to which such terminology is not known, the EC of Ukraine widely applies the following terms and legal constructions, such as "harmonization", "optimal agreement", "consideration", "combination" of interests of the above mentioned entities, which, according to the scientist's opinion, is a testimony not to the public, but to the public-private nature of its norms [Shcherbyna 2014].

In economic activity, the combination of private and public interests is manifested mainly in the realization of both – commercial and social functions by economic entities. In particular, an importance of the last one lies in creation of new jobs, satisfying consumer demand, formulation of the infrastructure, carrying out city-planning, etc. The commercial function exists in order to meet the financial and professional interests of the entity.

One of the tasks of state regulation of economic legal relations is to ensure a balance in satisfying private and public interests. This principle is reflected in Art. 6 and other norms of the EC of Ukraine and exists to restrict the state regulation of economic processes in order to ensure the social orientation of the economy, fair competition in entrepreneurship, environmental protection of the population, consumer protection and the safety of society and the state. In addition, according to Art. 9 of the EC of Ukraine in the sphere of economic activity, the state carries out long-term (strategic) and current (tactical) economic and social policy, aimed at realization and optimal coordination of economic entities and consumers, various social groups and the population as a whole [Economic Code of Ukraine 2003]. In fact, this is about combining and reconciling social (public) and private interests. At the same time, it is possible to agree with the expressed opinion par-

tially, since even if the state, represented by its authorities, independently chooses one or another tool of regulation in economic relations, making such a choice it should be guided by the necessity to protect the rights and freedoms of people and citizens, other individuals and legal entities (private interest) and social interest (public interest), that is, in fact, an optimal combination of relevant interests.

In this, if the effective use of public funds is viewed as the result, on which the regulation of economic relations is directed, so it is ensuring the receipt of such a result in practice that can be considered an equilibrium balance of the combination of public and private interests in the triangle "society - authority - business". Going into the above arguments, it is important to note that the optimal combination of direct and indirect tools of state regulation in economic relations is determined by the type of public administration adopted in one or another country.

The domestic law system is characterized by a combination of market self-regulation mechanisms and state-administrative methods of economic legal relations. With such a combination and in order to maintain an optimal balance of private interests of economic entities and public interests, it is important to determine the limits of state interference in the regulation of economic legal relations, as well as to establish the role of the state in ensuring the functioning of market self-regulation mechanisms. In this regard, Khrushch notes that the law-enforcement activity of public administration, which embodies its activities in relation to the implementation of the relevant authorities, plays a special role in the functioning of the mechanism of legal regulation in economic relations. An enforcement becomes necessary, when the rule of law is not sufficient for the emergence of subjective rights and legal obligations and there is a need for the issuance by the relevant state authorities of additional individual acts, which assist the mechanism of legal regulation to come into force [Khrushch 2015].

For example, in the United States, despite the spread of the idea of maximizing the freedom of economic activity, the role of the state in regulating entrepreneurial activity is significant, albeit ambiguous as well. Among the main elements of state regulation of entrepreneurship in the United States, the following are identified as such: 1) the system of antimonopoly regulation, including the regulation of natural monopolies, is being deployed to protect competition and limit monopolistic tendencies; 2) forecasting and strategic planning, which provides the basis for all management decisions, including forecasting in the system of state regulation; 3) stimulation of advanced technologies, fundamental science and implementation of state innovation policy aimed at combining scientific, technical and investment policy [Bila & Salatiuk 2014]. Thus, one of the main objectives of the optimal combination of direct and indirect methods and tools of state regulation in economic relations is to create conditions for the development of a socially oriented economy, the introduction of innovative technologies in economic processes, and ensuring the competitiveness of the national economy, which, in fact, is the protection of public interests of society and state.

Ways of Optimal Combination of Direct and Indirect Methods in State Regulatory Policy. In order to determine the ways, by which it is possible to achieve the optimal combination of direct and indirect economic and legal tools in the implementation of state regulation in economic activity, it is necessary to answer the question: what does the optimal combination of the appropriate tools mean and what role does it play in the regulation of economic relations. In this context, the category "effective" is the closest to the concept

“optimal”. Meanwhile, some scholars argue, that these concepts are significantly different from each other. In particular, according to Stepanenko, the difference lies in the fact, that not every optimal economic structure will be effective in those or other specific conditions. However, in other equal conditions, the optimality of the economic structure is an indispensable sign of the effective system functioning [Stepanenko 2016].

We can agree with this position, because in order to ensure efficiency (in this case, the use of public funds), it is necessary to achieve optimality. However, not always the optimal combination of appropriate tools of regulating economic activity will ensure the effectiveness of such regulation. That is, we are talking about additional conditions of efficiency (along with optimality).

The opinion of Shpakov, who observes that the current specificity of state regulation of market relations depends largely on the requirement to combine the solution of economic and social problems, which causes the need for innovative approaches to the mechanisms and instruments of economic policy of the state, seems to be a practical one. In this case, the scientist believes that the basic principles of state regulation legal mechanism should be: priority and protectionism of domestic production; systematic regulatory state influence on economic activity and the complex use by state direct and indirect tools and instruments; the sequence in relation to the coordination of the regulatory act with the main provisions of the state regulatory policy, other legislative and regulatory acts adopted and the fairness of ensuring the equality of all economic entities; the clarity of normative legal acts in its content and efficiency, which is to analyze the benefits of a regulatory act [Shpakov 2015].

In practice, achieving the optimal combination of direct and indirect methods and tools of regulating economic relations is expressed in achieving specific results of economic, legal and social nature. Stepanenko believes that the formation of the technological content of the “optimal economic structure” involves the synthesis of its characteristic features: 1) ensuring the formation of elements of the economy in the country, which meet the conditions for making such a list of goods and services, which is subject to the principle of optimality (providing both – production and distribution efficiency); 2) its result is to ensure long-term economic growth, provided that the rates of utilization of economic resources are coordinated with the speed of their updating; 3) the formation of elements of the optimal economic structure ensures the transition of the economic system to a higher (optimal) quality state, when its parameters are higher than the base (normative, potential) [Stepanenko 2016].

Thus, the main way of optimal combination of direct management methods and incentive methods is to identify those spheres of economic relations that are the most significant for state regulation and the introduction of appropriate regulatory mechanisms in these areas; on the other hand, to minimize public administrative influence by giving preference to self-regulated market mechanisms and indirect tools of state regulation (for example, public assistance and other forms of state support for entities).

Conclusions. Based on the research carried out in this article, it can be concluded, that the tendencies of state regulation in economic relations in the current context is the construction of such state regulation model, which involves reducing the direct administrative influence on the sphere of economic relations that develop in the direction of free fair competition; the introduction of such methods and tools of state regulation, which

promote the increase of social responsibility of economic entities, the formation of a socially oriented model of economic relations, etc.

In order to further modernize the methods and tools of state regulation in economic relations, it is necessary: 1) to carry out continuous monitoring, including public, efficiency and optimality of the state regulatory policy, for which it is necessary to develop a Methodology for assessing the effectiveness of the state regulatory policy (efficiency criteria); 2) increasing transparency and openness of procedures and mechanisms for providing state support to economic entities, ensuring availability of information about the applicable state support procedure, functioning of consultative centers providing explanations and consultations on receiving state assistance; 3) identification of the most problematic socio-economic spheres that require the greatest state regulation; providing in such areas the priority of direct methods of public administration, reducing administrative influence in other sectors of economic relations and giving preference to methods of incentives and promoting.

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