

UDC 351

DOI: <https://doi.org/10.32782/CMI/2023-6-8>**Shmygol Nadiia**Zaporizhzhia Polytechnic National University, Ukraine  
Warsaw University of Technology, Poland  
ORCID: <https://orcid.org/0000-0001-5932-6580>**Antoniuk Andrii**Classic Private University, Ukraine  
ORCID: <https://orcid.org/0000-0002-9591-394X>**Shmygol Yevgeniia**Warsaw University of Technology, Poland  
ORCID: <https://orcid.org/0000-0002-6463-3793>**Kuzmin Viktor**Zaporizhzhia Polytechnic National University, Ukraine  
ORCID: <https://orcid.org/0000-0003-4940-9395>

## REGULATION AND DEREGULATION: STRIKING A BALANCE BETWEEN CONTROL AND ENTREPRENEURIAL FREEDOM

*The article examines the state and issues of deregulation, identifies directions for the formation of an organizational and economic mechanism to ensure effective regulatory policy in the agricultural sector of Ukraine. It is based on the principles and strategic directions of regulatory policy in Ukraine in the context of sustainable development, the organizational and legal aspects of making regulatory decisions by legislative and executive authorities in Ukraine, as well as coordination mechanisms involving the State Regulatory Service. The state is responsible for exercising regulatory functions to manage development. On the other hand, excessive control and excessive intervention in all spheres of activity, instead of managed development, lead to a decrease in the efficiency of the entire system's functioning. The experience of Ukraine proves this: according to international comparisons, the country has the highest level of regulation with the lowest GDP per capita in Europe. It is argued that the strategy should include a complex of practical measures of organizational and economic nature, as well as regulatory measures that apply to the entire economy of Ukraine as a whole and to individual enterprises within the agricultural sector; within defined principles. Among the general organizational and economic measures, the implementation of the "regulatory guillotine" method for swift review and maximum abolition of existing administrative constraints is identified. The alignment of subsequent regulatory acts with EU requirements, along with the creation of a corresponding registry accessible to the public, is also considered. It is emphasized that this process should be fully in line with the existing algorithm for the adoption and tracking of regulatory acts, involving all interested parties. Moreover, it is important to work within the existing coordination mechanism to prevent the creation of additional organizational structures in the form of special commissions, services, or committees to avoid manual control.*

**Keywords:** regulation, deregulation, organizational and economic mechanism, regulatory policy.

**Шмиголь Н.М.**Національний університет «Запорізька політехніка», Україна  
Warsaw University of Technology, Poland**Антонюк А.А.**

Класичний приватний університет, Україна

**Шмиголь Є.**

Warsaw University of Technology, Poland

**Кузьмін В.В.**

Національний університет «Запорізька політехніка», Україна

## РЕГУЛЯЦІЯ ТА ДЕРЕГУЛЯЦІЯ: БАЛАНС МІЖ КЕРОВАНІСТЮ ТА СВОБОДОЮ ПІДПРИЄМНИЦЬКОЇ ДІЯЛЬНОСТІ

*У статті досліджено стан та проблеми дерегуляції, визначено напрями стратегії формування організаційно-економічного механізму забезпечення ефективної регуляторної політики в АПК України. В її основі покладені принципи та стратегічні напрями регуляторної політики України в умовах сталого розвитку; організаційно-правові аспекти прийняття регуляторних рішень законодавчою та виконавчою владою в Україні, а також координаційні механізми, в основі яких задіяна Державна регуляторна служба. Доведено, що стратегія повинна містити у своєму складі комплекс практичних заходів організаційно-економічного характеру, а також регуляторних заходів, які розповсюджуються як на всю економіку України в цілому, так й на підприємства агропромислового комплексу окремо, в межах визначених принципів. Визначено, що до загальних організаційно-економічних заходів слід віднести: впровадження методу дерегуляції «регуляторна гільотина» для швидкого перегляду та максимального скасування існуючих адміністративних*

обмежень; приведення наступних регуляторних актів до вимог ЄС зі створенням відповідного реєстру у відкритому доступі. Доведено, що даний процес повинний відбуватись у повній відповідності до діючого алгоритму прийняття та відстеження регуляторних актів, з залученням всіх зацікавлених осіб. Також, слід виходити з існуючого координаційного механізму, з метою недопущення створення додаткових організаційних структур у формі спеціальних комісій, служб чи комітетів для запобігання ручного керування.

**Ключові слова:** регуляція, дерегуляція, організаційно-економічний механізм, регуляторна політика.

**Problem statement.** To manage development, the state is obligated to exercise regulatory functions. On the other hand, excessive control and excessive intervention in all spheres of activity, instead of managed development, lead to a decrease in the efficiency of the entire system. The experience of Ukraine proves this: according to international comparisons, the country has the highest level of regulation with the lowest GDP per capita in Europe. Thus, regulation and deregulation are inseparable processes aimed at finding an optimal balance between control and entrepreneurial freedom.

**Analysis of recent research and publications.** Several researchers, such as Yu. Vozna, O. Gafurova, Yu. Ivanov, M. Kizim, O. Lesko, Ya. Petrunenko, H. Smolin, and others, have addressed theoretical and practical issues of deregulating Ukraine's economy in their scientific works [1–7]. Through the analysis and synthesis of existing works, several key directions have been identified, and we will delve into them in more detail.

The first direction is the most comprehensive, studying the peculiarities of deregulation in public administration as a whole. Representatives of this direction include V.A. Zinchenko, Yu.B. Ivanov, O.Yu. Ivanova, M.O. Kizim, A.A. Kuratashvili, Ya.V. Petrunenko, H.V. Smolin, and T.M. Chechetova-Terashvili [3; 5–8]. For example, M.O. Kizim, Yu.B. Ivanov, and others in [3] note that any socio-economic development is always accompanied by conflicts of interests and limitations for all participants in economic relations. During periods of economic and political crises, state regulation should help focus maximum resources on resolving these problems. After overcoming them, unnecessary restrictions on businesses should be immediately lifted.

**The aim of the article is** to examine the state and issues of deregulation, identifies directions for the formation of an organizational and economic mechanism to ensure effective regulatory policy in the agricultural sector of Ukraine

**Explanation of the main research material.** The concept of deregulation is associated with the following processes:

- liberalization, or ensuring economic freedom for business entities;
- decentralization, or the transfer of powers and mechanisms of their implementation to the local level;
- privatization, or the sale of state-owned enterprises to private investors;
- streamlining bureaucracy, which involves minimizing permit procedures for economic activities, and so on.

It can be added that in the current conditions of Ukraine, each of these processes is relevant. In terms of deregulation directions, M.O. Kizym and others distinguish: micro-level related to entrepreneurship and small business; meso-level related to sectoral and regional development; macro-level, which includes tax policy, foreign economic activity, budget, financial and social spheres, and the market.

Regarding the stages of deregulation, the authors include: defining the direction of deregulation and analyzing the legal framework; assessing proposed measures externally (using international ratings) and internally by expert evaluation; evaluating the effectiveness of deregulation after its implementation using relevant indicators, generalizing the results, and developing further recommendations.

Ya.V. Petrunenko in [5] considers the economic essence of deregulation as an iterative process of reconciling private and societal interests. He notes that deregulation cannot be absolute due to the necessity of ensuring the rule of law and considering the interests of citizens, businesses, and society as a whole.

The next group of authors focuses on deregulation in entrepreneurship, particularly in the context of Ukrainian realities and the state of emergency. They include Yu. Vozna, L. Hlushchenko, O. Hrynyk, O. Lesko, S. Lykholat, T. Meshcheryakova, and V. Pylyavets [1; 4; 7–9].

S. Lykholat in [8] explicitly states that excessive regulation, which leads to corruption and the shadow economy, is the main cause of permanent crisis phenomena in Ukraine. According to experts' estimates, the size of the shadow sector exceeds 60% of GDP. Under such conditions, increasing administrative and fiscal pressure on businesses is counterproductive, and deregulation is considered the only mechanism for restoring business activity, investment attractiveness, and competitiveness. O. Lesko, L. Hlushchenko, and T. Meshcheryakova in [4] agree with this opinion. They positively evaluate the legislative changes aimed at simplifying business conditions [10–11] and consider them as the beginning of the deregulation reform, which should occur in the following sequence:

1. Maximum elimination of administrative barriers and permit procedures that hinder business activities:

- Reducing the list of permit procedures and types of activities subject to mandatory certification; corresponding reduction of administrative and regulatory bodies.
- Orientation towards the international Doing Business index to simplify the conditions for entrepreneurial activities, reducing administrative costs for businesses by 20% over 5 years, and supporting SMEs.
- Transformation of an inefficient system of total state control into a selective and risk-oriented one; adaptation of national legislation to EU provisions.

2. Establishing mechanisms to prevent the introduction of new regulatory constraints whose effectiveness is not proven:

- Public discussions of regulatory initiatives and publication of the results of these discussions.

Obligation for regulatory authorities to demonstrate the economic feasibility of proposed measures and systematic review of existing norms.

At the end, the authors note that the multi-year implementation of deregulation reforms has had certain positive effects in selective areas, such as the speed and cost of opening a new business. However, the real sector

of the economy does not experience significant overall positive changes, especially for small and medium-sized enterprises. To address this issue, Y. Vozna suggests paying attention to international experience. She points out that, unlike Ukraine, business in EU countries is simultaneously influenced by both common and national legislation. However, the level of economic freedom is significantly higher and is based on the free movement of capital, labor resources, goods, and services. This is achieved through:

The principle of a "single window" for businesses, digitization of administrative services, and maximum reduction of permit procedures.

The principle of "silence is consent" – if an entrepreneur does not receive a response from a government agency within a specified period, it automatically implies permission to conduct activities on legitimate grounds. This principle allows for the elimination of bureaucratic delays and corruption components and requires mandatory implementation in domestic legislation.

If a particular EU country delays the rapid implementation of the mentioned principles, it primarily affects the competitiveness of its domestic market, which serves as an additional stimulus. Gradual deregulation does not have a positive effect as the bureaucratic apparatus adapts to these changes.

Fast deregulation involves a comprehensive review of the entire regulatory framework. Ukraine's experience shows that this procedure also does not justify itself. In practice, the incumbent government is not interested in reducing corrupt income, so the corresponding decisions are often made in the interests of big business, which is represented by business associations in public discussions. Consequently, the interests of small and medium-sized enterprises remain unaddressed.

The "regulatory guillotine" method entails the rapid repeal of existing regulatory acts, followed by bringing new regulatory norms in line with EU requirements and creating an appropriate register. We believe that this approach is the most acceptable in the Ukrainian context.

According to the European Information and Research Center of USAID, the RG method has proven successful in developing countries in Western Europe [11]. In Croatia, 15% of regulatory requirements were eliminated and 10% were simplified out of the initial 1,451 requirements. In Serbia, 43% of requirements were eliminated and 31% were simplified out of the initial 2,473 requirements. In Bosnia and Herzegovina, 27% of requirements were eliminated and 42% were simplified out of 331 regulatory acts. In Ukraine, according to the report, 36% of requirements were eliminated and 7.2% were simplified out of the initial 14,000 requirements. Essentially, this means the cancellation of outdated norms without providing real assistance to businesses.

In [9], V. Pilyavets discusses deregulation as a necessary measure to support domestic businesses during a state of war and reconstruction. According to his opinion, Government Bill No. 8058, which was submitted to the Verkhovna Rada of Ukraine in spring 2022 and was intended to take effect from January 1, 2023, will address several pressing issues regarding deregulation.

This bill included the following provisions:

– Creation of a special commission on deregulation composed of the Minister of Economy of Ukraine, representatives of the Office of the President, the State

Regulatory Service, the Ministry of Finance, and other representatives of the executive branch.

– Starting from January 1, 2023, all state regulatory acts in Ukraine would be required to have dual validity. In other words, they would need to be included in the exclusive list of the aforementioned commission. If a regulatory act was not included in this list, it would be considered null and void.

On one hand, we have an expedited version of the "regulatory guillotine" method, which is intended to simultaneously address the issue of excessive regulation, relieve the burden on businesses, and assist the economy during a state of war. On the other hand, both within Ukraine and in the expert community outside its borders, this bill faced significant criticism and was sent back for further refinement.

In our opinion, some significant drawbacks of this bill include:

– In any country, deregulation involves reducing the number of government administrative and regulatory bodies. In Ukraine, the coordinating function of implementing state regulatory policy is already carried out by the State Regulatory Service, which is also responsible for reviewing regulatory acts and deregulation. Instead of this, we see an attempt to replace existing institutions with manual control by creating an additional commission with duplicating functions.

– When considering the organizational and legal mechanism for adopting regulatory decisions, we mentioned that Ukrainian laws can have characteristics of regulatory acts. This creates a legal collision where the commission, by not including such a law in the exclusive list, can cancel its effect, directly contradicting the Constitution of Ukraine.

– It is envisaged that representatives of business associations, in other words, representatives of large businesses, will participate in the work of the special commission. The interests of small and medium-sized businesses will not be taken into account due to the absence of their representatives. At the same time, the principles of EU regulatory law require that all interested parties participate in making such decisions.

Thus, there is a significant risk of abuse as the existing procedure for reviewing regulatory acts is replaced by selectivity in favor of those who carry it out. Among domestic scholars, there are also those who have studied the processes of deregulation directly in the agro-industrial complex. They include O.V. Gafurova, A.V. Ivanenko, M.M. Ksenofontov, S.I. Marchenko, and others [2; 12]. M.M. Ksenofontov considers the agro-industrial complex to be a potentially competitive industry, so deregulation should be carried out through the liberalization of agricultural product and food markets. The main achievements in this direction in recent years, according to O.V. Gafurova and S.I. Marchenko, include the reduction in the number of permits in animal husbandry and crop production, the start of functioning of the agricultural land market, digitization of public procurement, and institutional transformations.

Having examined the state and problems of deregulation, let's define the directions of the strategy for forming an organizational and economic mechanism to ensure effective regulatory policy in the agricultural sector of Ukraine. It is based on:

– Principles and strategic directions of regulatory policy in Ukraine in the context of sustainable development.

– Organizational and legal aspects of adopting regulatory decisions by legislative and executive authorities in Ukraine, as well as coordination mechanisms involving the State Regulatory Service.

In essence, the strategy should include a complex of practical measures of organizational and economic nature, as well as regulatory measures that apply to the entire economy of Ukraine as a whole and to individual enterprises within the agricultural sector, within the defined principles.

Therefore, among the general organizational and economic measures, the following can be included:

– Implementation of the "regulatory guillotine" method for the rapid review and maximum abolition of existing administrative restrictions, aligning the relevant regulatory acts with EU requirements and creating a corresponding registry accessible to the public. This process should fully comply with the existing algorithm for adopting and tracking regulatory acts, involving all stakeholders. It is also important to adhere to the existing coordination mechanism to prevent the creation of additional organizational structures in the form of special commissions, services, or committees to avoid manual control.

– The principle of a "single window" for businesses based on digitization should apply exclusively to all administrative services that can be provided online with minimal processing time. If a business does not receive a response from a government agency within the specified period, the principle of "silent consent" should come into effect, meaning that the activity can proceed on legal grounds. This should also involve reducing the number of administrative and supervisory bodies.

These measures aim to streamline regulations, simplify procedures, and reduce administrative burdens on businesses in the agricultural sector, promoting efficiency and facilitating economic development.

**Conclusion.** Based on the conducted analysis, the following conclusions can be drawn regarding the organizational and economic measures of regulatory influence in the agro-industrial complex:

1. Completing the agricultural land market reform is a necessary step to stimulate agricultural development. This will ensure transparent land relations, attract investments, and increase the productivity of agricultural enterprises.

2. The development of rural territories requires a mixed approach, which involves providing direct targeted assistance to farmers and simultaneous development of local infrastructure through mechanisms of local self-governance.

3. The existing State Fund for Regional Development should consider the principles and objectives of the European Agricultural Fund for Rural Development (EAFRD). Additionally, it is necessary to establish a Rural Development Fund similar to the European Agricultural Guarantee Fund (EAGF) to provide direct support to agricultural producers.

4. Diversification of the rural economy involves completing the decentralization reform to redistribute income at the local level and strengthen the role of communities. It is also necessary to develop procurement, supply, and marketing infrastructure.

5. Ensuring access to investment and credit resources for small and medium-sized businesses is not possible without successful implementation of the previous stages and maximum deregulation, as the current financial and economic situation in the sector does not allow for effective utilization of this toolkit.

## REFERENCES

1. Vozna, Y.I. (2022). Foreign Experience of Business Deregulation in the Context of Ukrainian Realities. *Dnipro Scientific Journal of Public Administration, Psychology, Law*, 2, 98–103. DOI: <https://doi.org/10.51547/ppp.dp.ua/2022.2.16>
2. Gafurova, O.V., Marchenko, S.I. (2021). Legal Foundations of Agrarian Business Deregulation in Ukraine. *Scientific and Practical Journal "Law, Human, Environment"*, 12(3), 40–45. DOI: <http://dx.doi.org/10.31548/law2021.03.005>
3. Kizym, M.O., Ivanov, Y.B., Zinchenko, V.A., Ivanova, O.Y., Chechetova-Terashvili, T.M. (2014). *Deregulation of the Economy: Problems and Prospects*. Monograph. Kharkiv: VD "Inzhek".
4. Lesko, O.Y., Glushchenko, L.D., Meshcheryakova, T.K. (2016). Deregulation of Entrepreneurial Activities and Improvement of Business Conditions in Ukraine. *Bulletin of VPI*, 1, 58–64. Retrieved from: <https://visnyk.vntu.edu.ua/index.php/visnyk/article/view/1877>
5. Petrunenko, Y.V. (2019). Deregulation of Economic Activities as a Process of Optimal Alignment of Public and Private Interests. *Scientific Bulletin of Uzhhorod National University. Series: Law*, 1(55), 157–160. Retrieved from: <https://dspace.uzhnu.edu.ua/jspui/handle/lib/34844>
6. Smolin, G.V. (2008). Economic and Legal Foundations of Regulation and Deregulation of Economic Activities. *Socio-Economic Issues of the Modern Period of Ukraine*, 6(74), 130–138.
7. Shmyhol, N.M. (2022). Assessment of Organic Farming Development in Ukraine and Poland. *Management of Changes and Innovations*, 3, 48–54.
8. Lykholat, S.M., Bilynska-Slotylo, S.B. (2005). Development of the Deregulation Process of Entrepreneurial Activity in Ukraine. *Collection of Scientific and Technical Works "Scientific Bulletin"*, 15(4), 251–253.
9. Pylyavets, V., Hrynyk, O. (2022). Deregulation as a Supporting Lever for Business in Times of War. *Economy and Society*, 42. Retrieved from: <https://economyandsociety.in.ua/index.php/journal/article/view/1678>
10. Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Simplification of Business Conditions (Deregulation)" No. 191-VIII dated February 12, 2015. Retrieved from: <https://zakon.rada.gov.ua/laws/show/191-19#Text>
11. Implementation of Deregulation in European Countries and in Ukraine. Informational Reference prepared by the European Information and Research Center of USAID. Retrieved from: <http://euinfocenter.rada.gov.ua/uploads/documents/29429.pdf>
12. Ksenofontov, M.M., Ivan'ko, A.V. (2015). Deregulation of Economic Activities in the Agricultural Sector: Stages, Industry Specifics, Mechanisms. *Economic Analysis: Collection of Scientific Papers*, 21(2), 122–127. (in Ukrainian)