UDC35.08 + 681.32

https://doi.org/10.32689/2617-2224-2020-2(22)-48-63

Durman Mykola Oleksandrovych, 
Candidate of Technical Sciences, Associate Professor, Honored Worker of Education of Ukraine, Associate Professor of the Department of Public Administration and Local Self-Government of Kherson National Technical University, 73008, Kherson, Beryslavske Shose, 24, 3rd building, e-mail: mykola.dur@gmail.com, tel.: +380503150373, https://orcid.org/0000-0002-3775-205X

Дурман Микола Олександрович,
кандидат технічних наук, доцент, за-служений працівник освіти України, доцент кафедри державного управління і місцевого самоврядування Херсонського національного технічного університету, 73008, м. Херсон, Бериславське Шосе, 24, 3-й корпус, e-mail: mykola.durman@gmail.com, тел.: +380503150373, https://orcid.org/0000-0002-3775-205X

Дурман Николай Александрович,
кандидат технических наук, доцент, за-служенный работник образования Укра-инны, доцент кафедры государственного управления и местного самоуправления Херсонского национального технического университета, 73008, г. Херсон, Бериславское шоссе, 24, третий корпус, e-mail: mykola.durman@gmail.com, тел.: +380503150373, https://orcid.org/0000-0002-3775-205X

Drozhyn Dmytro Yurievich, 
Candidate of Science in Public Administration, Associate Professor, Associate Professor of the Department of Public Administration, Management and Marketing of V. Dahl East Ukrainian National University. 93400, Severodonetsk, 59a Prospect Central, 
e-mail: ddrozhzhyn@gmail.com, tel.: +380506684666, https://orcid.org/0000-0002-1828-7201

Дрожжин Дмитро Юрійович,
кандидат наук з державного управління, доцент, доцент кафедри публічного адміністрування, менеджменту та маркетингу Східноукраїнського національного універ-
GROWING AND FUNCTIONS OF THE STATE REGULATORY SERVICE OF UKRAINE AS THE MAIN SUBJECT OF FORMATION AND REALIZATION OF THE STATE REGULATORY POLICY

Abstract. The article deals with the issues of establishing the State Regulatory Service as the main subject of the formation and implementation of the state regulatory policy. It is noted that during the period of its activity the status of this state body changed — from the State Committee of Ukraine for Regulatory Policy and Entrepreneurship to the State Regulatory Service of Ukraine. Also, the functions of the SRS have changed — except, in fact, participation in the formation and implementation of a single state regulatory policy in the field of entrepreneurship; related to the development and implementation of measures to implement a unified state regulatory policy in the field of entrepreneurship, etc. Today, the service focuses on the following three areas: participation in the formation of the state regulatory policy, activities in the field of the public policy in licensing business activity and control over the activity of the public authorities in the field of regulatory policy formation. Recently, the Better Regulation Delivery Office, a non-governmental organization whose main purpose is to help Ukraine become an effective institution-able state, to develop and implement a regulatory instrument, has been significantly assisted by the Better Regulation Delivery Office to take into account the global regulatory trends and improve business engagement aimed at the public interest and development of small and medium-sized enterprises. Collaboration with non-governmental organizations and structures representing business interests makes the State Regulatory Service of Ukraine more open to the public and the state regulatory policy more transparent and effective.

Keywords: state regulatory policy, State Committee of Ukraine for Regulatory Policy and Entrepreneurship, State Regulatory Service of Ukraine, functions of the State Regulatory Service, Better Regulation Delivery Office, interaction between the state and business, effective regulatory decisions.
СТАНОВЛЕННЯ ТА ФУНКЦІЇ ДЕРЖАВНОЇ РЕГУЛЯТОРНОЇ СЛУЖБИ УКРАЇНИ ЯК ОСНОВНОГО СУБ’ЄКТА ФОРМУВАННЯ ТА РЕАЛІЗАЦІЇ ДЕРЖАВНОЇ РЕГУЛЯТОРНОЇ ПОЛІТИКИ

Анотація. Розглядаються питання становлення Державної регуляторної служби як основного суб’єкта формування та реалізації державної регуляторної політики. Зазначається, що протягом періоду своєї діяльності статус цього державного органу змінювався — від Державного комітету України з питань регуляторної політики та підприємництва до Державної регуляторної служби України. Також змінювалися і функції ДРС — крім, власне, участі у формуванні та реалізації єдиної державної регуляторної політики у сфері підприємництва, до них додавалися та забиралися функції реалізації державної політики щодо ліцензування підприємницької діяльності та державної реєстрації підприємництва, контролю та координації діяльності органів виконавчої влади, пов’язаної з розробкою і реалізацією заходів щодо проведення єдиної державної регуляторної політики у сфері підприємництва тощо. На сьогодні діяльність служби зосереджена на таких трьох напрямках: участь у формуванні державної регуляторної політики, діяльність у сфері державної політики щодо ліцензування підприємницької діяльності та контролю за діяльністю органів публічної влади у сфері формування регуляторної політики. Останнім часом для врахування світових тенденцій у сфері регуляторної діяльності та покращення взаємодії з бізнесом суттєву допомогу в своїй діяльності ДРС отримує від Офісу ефективного регулювання — неурядової організації, головною метою якої є допомога Україні стати ефективною інституційно-спроможною державою, розробити та впровадити інструменти ефективного державного регулювання, спрямовані на суспільний інтерес та розвиток малого та середнього підприємництва. Співпраця з неурядовими організаціями та структурами, що представляють інтереси бізнесу, робить Державну регуляторну службу України більш відкритою для суспільства, а державну регуляторну політику — більш прозорою та ефективною.

Ключові слова: державна регуляторна політика, Державний комітет України з питань регуляторної політики та підприємництва, Державна регуляторна служба України, функції Державної регуляторної служби, Офіс ефективного регулювання, взаємодія держави та бізнесу, ефективні регуляторні рішення.

СТАНОВЛЕНИЕ И ФУНКЦИИ ГОСУДАРСТВЕННОЙ РЕГУЛЯТОРНОЙ СЛУЖБЫ УКРАИНЫ КАК ОСНОВНОГО СУБЪЕКТА ФОРМИРОВАНИЯ И РЕАЛИЗАЦИИ ГОСУДАРСТВЕННОЙ РЕГУЛЯТОРНОЙ ПОЛИТИКИ

Аннотация. Рассматриваются вопросы становления Государственной регуляторной службы как основного субъекта формирования и реализации государственной регуляторной политики. Отмечается, что в течение периода своей деятельности статус этого государственного органа менялся — от
Государственного комитета Украины по вопросам регуляторной политики и предпринимательства до Государственной регуляторной службы Украины. Также менялись и функции ДРС — кроме, собственно, участия в формировании и реализации единой государственной регуляторной политики в сфере предпринимательства, к ним добавлялись и убирались функции реализации государственной политики относительно лицензирования предпринимательской деятельности и государственной регистрации предпринимательства, контроля и координации деятельности органов исполнительной власти, связанной с разработкой и реализацией мероприятий по проведению единой государственной регуляторной политики в сфере предпринимательства и тому подобное. На сегодня деятельность службы сосредоточена на следующих трех направлениях: участие в формировании государственной регуляторной политики, деятельность в сфере государственной политики относительно лицензирования предпринимательской деятельности и контроль за деятельностью органов публичной власти в сфере формирования регуляторной политики. В последнее время для учета мировых тенденций в сфере регуляторной деятельности и улучшения взаимодействия с бизнесом существенную помощь в своей деятельности ГРС получает от Офиса эффективного регулирования — неправительственной организации, главная цель которой — помочь Украине стать эффективным институционально-способным государством, разработать и внедрить инструменты эффективного государственного регулирования, направленные на общественный интерес и развитие малого и среднего предпринимательства. Сотрудничество с неправительственными организациями и структурами, представляющими интересы бизнеса, делает Государственную регуляторную службу Украины более открытой для общества, а государственную регуляторную политику — более прозрачной и эффективной.

**Ключевые слова:** государственная регуляторная политика, Государственный комитет Украины по вопросам регуляторной политики и предпринимательства, Государственная регуляторная служба Украины, функции Государственной регуляторной службы Офис эффективного регулирования, взаимодействие государства и бизнеса, эффективные регуляторные решения.

**Formulation of the problem.** Along with the processes of forming the regulatory framework of the state regulatory policy (SRP), there are processes of becoming its institutional support, i.e. the creation of a system of institutions and organizations whose purpose is to implement in practice changes in the SRP, enshrined at the regulatory and legal level.

The State Committee of Ukraine for Regulatory Policy and Entrepreneurship (hereinafter referred to as SCRPE or State Committee for Entrepreneurship), the central body of executive power of Ukraine, whose activity was
directed and coordinated by the Cabinet of Ministers of Ukraine through the Vice Prime Minister of Ukraine [1], which was later reorganized several times and is today called the State Regulatory Service of Ukraine.

Therefore, studying the activity of the State Regulatory Service of Ukraine as the main subject of the formation and implementation of the state regulatory policy is very important.

**Analysis of the recent research and publications.** V. Lyashenko [2], A. Meshcheryakov [3], L. Popova [4], V. Yurchyshyn, and D. Lyapin [5] addressed the issues of development and implementation of the state regulatory policy in terms of economic mechanisms. From the point of view of public administration of the SRP was studied by R. Veprytsky [6], S. Bevz [7], T. Kravtsova [8], Y. Berezhny [9], N. Ovchar [10], M. Pohrebnyak [11] and others.

However, the establishment of the State Regulatory Service of Ukraine as the main subject of the formation and implementation of the state regulatory policy, as well as its function and interaction with the public and business structures, has not yet been overlooked by researchers.

**Formulation of purposes (goal) of the article.** The purpose of the article is to study the history of formation, to determine the place and role of the State Regulatory Service as the main body, whose functions include the formation of the legislative and regulatory framework of the state regulatory policy, the tracking of the regulatory decisions of other entities of the SRP on their compliance with the legislation and so on.

**Presentation of the main material.** According to the Presidential Decree “On Issues of the State Committee of Ukraine for Regulatory Policy and Entrepreneurship” [12], this Committee was proclaimed a central executive body with a special status that ensures the implementation of the state policy in the field of entrepreneurship, and a coordinator of the activities of the state executive bodies on preparation of projects, publication and implementation of the regulatory acts.

In 2003, after the adoption of the special Law of Ukraine “On the Principles of State Regulatory Policy in the Field of Economic Activity” [13], the role of the SCRPE as a body coordinating the work of other authorities with regulatory powers has only increased.

Among the main tasks of the SCRPE were:

- firstly, participation in the formation and implementation of a unified state policy in the field of entrepreneurship, in particular regulatory policy, state policy on licensing of the business activities and state registration of business;

- secondly, coordination, licensing of the business activities, state registration of business.

As of December 9, 2010, the Committee was in the process of reorganization [14], and the state registration service of Ukraine was entrusted with implementing the state policy on registration of the legal entities and natural persons-entrepreneurs. However, as early as June 2011, this Decree was repealed and by the order of the Cabinet of Ministers of Ukraine [16] the functions of the State Committee for the Implementation of State Regulatory
Policy, State Policy for the Development of Entrepreneurship (except for registration of legal entities and natural persons-entrepreneurs) were suspended and transferred to the Ministry of the Economic Development and Trade of Ukraine.

And already on December 19, 2011, the State Service of Ukraine for Regulatory Policy and Entrepreneurship Development was formed [17] as the central body of executive power of Ukraine, which is a legal entity of public law, has a seal with the image of the State Emblem of Ukraine and its name, its own forms, accounts with the Treasury bodies. However, in 2014, the State Service of Ukraine for Regulatory Policy and Entrepreneurship Development was “reorganized through transformation” into the State Regulatory Service of Ukraine (SRS) [18].

In addition to the SCRPE, a number of institutions have been set up at the central and regional levels to create the conditions for the implementation and effective realization of the regulatory reform in the field of entrepreneurship. In particular, at the central level, at the initiative of the SCRPE, the following were created: Public Collegium of the State Committee for Regulatory Policy and Entrepreneurship [19], the Council of Associations of Entrepreneurs of Ukraine with the Governmental Committee for Economic Development [20], which have already expired and the Council of Entrepreneurs under the Cabinet of Ministers of Ukraine [21], which, as amended, is valid today.

The Public Collegium of the State Committee for Regulatory Policy and Entrepreneurship was established in order to involve a wide range of the public in discussing and implementing the state policy in the field of entrepreneurship development. The board was comprised of representatives of the national associations of entrepreneurs empowered to support the entrepreneurship in the regions. One of the main tasks of the board was to prepare proposals for the formation and implementation of a unified state policy in the field of entrepreneurship, in particular regulatory policy, policies on registration and licensing of the business activities.

The Council of Associations of Entrepreneurs of Ukraine with the Governmental Committee for Economic Development of its time consisted of 33 representatives of the all-Ukrainian and local associations of entrepreneurs of Ukraine. The main purpose of the Council of Associations of Entrepreneurs was to involve a broad mass of entrepreneurs in discussing and analyzing the effectiveness of decisions of the executive authorities to adjust the regulatory environment in the country.

At the regional level an institute of business support commissioners has been established. The activities of the commissioners are regulated by the order of SCRPE “On Amendments to the Regulations on the Commissioner for Support of Entrepreneurship” [22], which defines the main tasks, functions, rights and duties of the commissioners, the procedure for their appointment and dismissal, the main aspects of the relations with the state authorities, institutions and organizations. The purpose of the commissioners’ functioning was to facilitate the dialogue between the local executive authorities and business entities regarding the optimi-
zation of the regulatory climate of the local business activity.

Coordination councils on entrepreneurship development at the local executive bodies were established in accordance with the Decree of the President of Ukraine “On Measures to Ensure the Support and Further Development of the Entrepreneurial Activity” [23]. Coordination councils include representatives of the associations of enterprises, authorized persons for protection of the rights of the entrepreneurs, employees of the state tax authorities, internal affairs and local executive authorities. The purpose of the functioning of the coordination councils is to facilitate the effective decision-making on the development of entrepreneurship and the implementation of the regulatory reform.

Also in 2015, the State Regulatory Service was empowered with the relevant Law of Ukraine [24] in the field of licensing certain types of the economic activity and issuing other permits for conducting economic activity, which became a separate major “layer” of work.

Considering the powers of the current State Regulatory Service of Ukraine, we can say that according to the Regulation [18]:

1. “The State Regulatory Service of Ukraine (SRS) is a central executive body, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine, and which implements the state regulatory policy, policies on supervision (control) in the sphere of economic activity, licensing and permitting system in the sphere of economic activity and deregulation of the business activity.

   3. The main tasks of the SRS are:
      • implementation of the state regulatory policy, the policy on supervision (control) in the sphere of economic activity, licensing and the permit system in the sphere of economic activity;
      • coordination of the actions of the executive authorities, civil society institutions and entrepreneurship on deregulation of the economic activity.

4. SRS in accordance with its tasks:
   1) generalizes the practice of application of the legislation on issues within its competence, develops proposals for improvement of the legislative acts, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine and submits them to the Ministry of Economic Development in due course;
   2) develops draft laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine on issues pertaining to the sphere of activity of the SRS;
   3) ensures the implementation of the state regulatory policy on the basis of economic feasibility and effectiveness of the regulatory acts, reducing the level of the state interference in the activities of the economic entities and removing obstacles to the development of the economic activity;
   4) carries out measures on optimization of the number of functions of the state supervision (control) in the sphere of economic activity performed by the executive authorities, makes proposals in accordance with the established procedure for their reduction and elimination of duplication;
   5) conducts examination of the draft laws of Ukraine, other normative-legal acts that regulate the economic and
administrative relations between the regulatory bodies or other bodies of the state power and economic entities;

6) participates in the preparation of the plans of measures of the Cabinet of Ministers of Ukraine on deregulation of the economic activity, provides for monitoring and coordination of the implementation of such plans by the executive authorities;

7) approves the draft normative legal acts on supervision (control) in the sphere of economic activity and on licensing issues that are developed by the central bodies of the executive power;

8) conducts, in accordance with the procedure established by the Law of Ukraine “On the Principles of State Regulatory Policy in the Field of Economic Activity” [13], analyzes the draft regulatory acts submitted for approval and analyzes their regulatory impact;

9) conducts, in accordance with the procedure established by the Law of Ukraine “On the Principles of State Regulatory Policy in the Field of Economic Activity”, regulatory acts of the central executive bodies, their territorial bodies, the Council of Ministers of the Autonomous Republic of Crimea, and local executive authorities. In case of violation of the requirements of Articles 4, 5, 8–13 of the said Law during the examination, it decides on the necessity to eliminate the violations of the principles of the state regulatory policy by the body that has adopted the relevant act;

10) informs the executive authorities, their officials, authorized to adopt or approve the regulatory acts on revealing the statutory regulatory policy in the sphere of economic activity established by the Law of Ukraine “On the Principles of State Regulatory Policy in the Sphere of Economic Activity” of the circumstances in which the regulatory acts cannot be adopted or approved, and if the said regulatory acts are subject to state registration with the judicial authorities, — also informs the relevant judicial authorities, that are competent to carry out the state registration of such regulatory acts;

11) prepares proposals for improvement in accordance with the principles of the state regulatory policy in the field of economic activity of draft regulatory acts developed by the local self-government bodies;

12) provides methodological support to the activities of the regulatory bodies related to the implementation of the state regulatory policy in the field of the economic activity;

13) ensures preparation and submission annually to the Cabinet of Ministers of Ukraine of the results of implementation of the state regulatory policy in the sphere of economic activity in the system of executive bodies;

14) takes within the powers provided for by law measures to protect the rights and legitimate interests of the economic entities violated as a result of the regulatory acts;

15) carries out the analysis of the reports on the monitoring of the effectiveness of the regulatory acts adopted by the central executive bodies, their territorial bodies, the Council of Ministers of the Autonomous Republic of Crimea, local executive bodies;

16) appeals to the regulatory bodies, in accordance with the law, with proposals to amend or invalidate adopted by such bodies regulatory acts that are contrary to the principles of state regu-
ulatory policy or adopted in violation of the statutory requirements;

17) appeals in accordance with the established procedure to the bodies of the state power, their officials, bodies and officials of the local self-government, which in the cases and in the procedure established by the Constitution and laws of Ukraine, have the right to repeal or suspend the acts of other state bodies, their officials, bodies and local government officials, with submissions on the cancellation (suspension) of the regulatory acts that are contrary to the principles of the state regulatory policy in the field of economic activity or adopted in violation of the statutory requirements;

18) provides clarification of the provisions of the legislation on the state regulatory policy in the field of economic activity;

19) generalizes the practice of applying legislation on the state supervision (control) in the field of economic activity;

20) informs the Cabinet of Ministers of Ukraine on the state of implementation by the executive authorities of the requirements of the Law of Ukraine “On Basic Principles of the State Supervision (Control) in the Field of Economic Activity”;

21) develops basic directions of development of licensing, provides methodical guidance and information support of activity of the licensing bodies;

22) oversees the licensing authorities’ compliance with the licensing legislation and clarifies its application;

23) develops the forms of licensing documents and rules for their design;

24) agrees upon the submission of the licensing authority the licensing conditions for conducting a certain type of economic activity and the procedure for exercising control over their observance, except in cases provided by law;

25) forms expert-appellate council and carries out its organizational, informational and logistical support;

26) organizes training, retraining and advanced training of the licensing specialists;

27) maintains a Unified License Registry;

28) organizes orders, supplies, records and reports on the use of the license forms;

29) issues, in accordance with the Law of Ukraine “On Licensing of the Certain Types of Business Activities” [24], on the elimination of violations of the legislation in the field of licensing;

30) participates in the development of the draft regulatory acts on the issue of permits and approves them in due course;

31) carries out, within the limits of the powers provided for by the law, compliance with the requirements of the legislation on issues of permits and the methodological support of the activities of permitting bodies and state administrators;

32) organizes training and advanced training of the state administrators, coordinates their nominations for appointment and dismissal;

33) is the manager of the Registry of permits;

34) manages the state-owned objects within the scope of management of the Service;

35) organizes interaction with NGOs, their unions and market participants on a sectoral basis;
36) carries out consideration of the citizens’ appeals on issues related to the activity of the SRS, enterprises, institutions and organizations belonging to the sphere of its management;
37) informs the public about its activities and the state of implementation of the state policy in certain spheres of activity, as well as about the progress of implementation of the action plans for simplification of the regulatory base and deregulation of the economic activity;
38) exercises other powers specified by the law.”

As we can see, the list of the functions performed by the State Regulatory Service of Ukraine is quite large. These include function blocks that are directly related to:
• the development of the regulatory decisions;
• the formation of the regulatory framework of the state regulatory policy;
• the monitoring and control over the authorities regarding compliance with the requirements of the regulatory legislation;
• the carrying out the state policy in the field of licensing of certain types of business activity;
• the formulating a policy for handling permits in various areas of government;
• the interaction with NGOs, their unions and market participants on a sectoral basis, as well as with the public, etc.

However, as the experience of the SRS has shown for almost two decades, this activity has not always been effective and efficient. Therefore, the Better Regulation Delivery Office (BRDO) has been operational in Ukraine since 2015 [25].

The Better Regulation Delivery Office is an independent non-governmental structure that does not replace the functions of the State Regulatory Service or other public institutions, but its experts and available resources can be used to analyze the regulatory field and formulate effective regulatory decisions in various spheres of the public administration.

The main tasks of the Office are to reduce the cost and complexity of doing business in the country, and to minimize the corruption schemes. The Office should help improve the regulatory climate and ultimately facilitate Ukraine’s entry into the European regulatory field and the DCFTA.

“The Better Regulation Delivery Office is a resource for all the ministries. This is an external department for the preparation of the deregulation regulations, so as the British say, use and abuse: use full-time office professionals to carry out reforms as quickly as possible. In addition, deregulation is the most effective way to fight corruption, out of pockets of corrupt officials we are returning billions of hryvnias to the business”, said then Minister of Economic Development and Trade of Ukraine Aivaras Abromavichus to his colleagues in the Government [26].

The Office is involved in analyzing the legislation and the regulatory field, identifying issues and drafting new documents that will address these issues. Draft regulatory documents are being drafted, and Cabinet regulations have already been amended to accelerate the adoption of these important initiatives
to improve the investment climate and economic growth.

Thus, the Better Regulation Delivery Office becomes an assistant for the State Regulatory Service of Ukraine and will help to increase the transparency of its activities and improve the regulatory decisions.

Conclusions and prospects for further research. In its formation the State Regulatory Service of Ukraine has passed several stages, its initial functions have changed, but the main function has remained unchanged - participation in the development and implementation of the state regulatory policy in order to develop Ukraine more effectively. As can be seen from the above, the necessary legal and institutional frameworks for the radical reform of the system of “state-business” relations have been formed, therefore, the basis for increasing the transparency of the regulatory environment has been created, and there are potential opportunities for the legal influence of the entrepreneurs on the regulatory regulation of the business activity at both local and central level. We see prospects for further exploration in analyzing the activities of the SRS of Ukraine and identifying those functions that are inefficiently performed in order to improve them in terms of economy and public administration.

REFERENCES

6. Veprytskyi R. S. (2013). Derzhavna rehuliatorna polityka u sferi hospodarskoi diialnosti yak forma protydi ekonomichnii zlochynnosti [State regul-


25. Офіс ефективного регулювання. URL: https://brdo.com.ua/

26. Айварас Абромавичус: Офіс ефективного регулювання стане ресурсним центром для всіх міністерств. URL: http://www.me.gov.ua/News/Detail?lang=uk-UA&id=97e4a2b4-0d47-4123-896f-8f20c9860290&title=AivarasAbromavichus-OfisEfektivnogoReguluvanniaStaneResursnimTsentrDliaVsikhMinisterstv