

РОЗДІЛ 2. ЕКОНОМІКА ТА УПРАВЛІННЯ
НАЦІОНАЛЬНИМ ГОСПОДАРСТВОМPREVENTING THE DEVELOPMENT OF THE ILLEGAL ECONOMY:
GLOBAL EXPERIENCEЗАПОБІГАННЯ РОЗВИТКУ ПОЗАЛЕГАЛЬНОЇ ЕКОНОМІКИ:
СВІТОВИЙ ДОСВІД

The article is devoted to the generalization of the global experience of preventing the development of the illegal economy. World experience proves the importance of developing a regulatory policy to counter the spread of illegal economic activity. It is justified that, according to most researchers, the illegal economy contains three main elements: informal, hidden, and criminal. It was emphasized that the main thing in preventing the development of the illegal economy is the creation of an appropriate institutional environment in which property rights are guaranteed and responsibility is clearly defined. The directions for preventing the development of shadow economic relations are summarized. The main concepts of state regulatory policy regarding the informal economy are considered: direct control (punishment); direct control (encouragement); indirect control. It was found that in order to ensure the regulatory influence on the reduction of the volume of the informal economy, measures to stimulate its legalization should be applied, but in the event that there are no signs of criminal operations in this area. It was concluded that the legalization of informal activity becomes more economically expedient due to the expansion of opportunities for its implementation in the legal sector. Measures to prevent the use of money laundering in the national financial system in various countries are considered. As a result, it was concluded that the national systems of organizational and legal measures against the shadow economy differ in their specificity, but the practice of their use is partially implemented in national realities. The peculiarities of the application of the tax amnesty and/or zero declaration tool have been studied. The impact of digitization processes on the shadowing of economic relations is outlined. It was found that this influence is ambiguous from the point of view of preventing the development of the illegal economy. As a result, it is stated that the greatest difficulty for regulation is the activity related to the functioning of the hidden part of the illegal economy, because there is always a conscious desire of the entrepreneur to minimize the payment of taxes, maximize his own profit and get additional benefits for doing business. In such conditions, measures to regulate hidden entrepreneurship should depend on the peculiarities of the entrepreneur's economic activity.

Key words: development, economy, illegal economy, national economy, shadow economy, world experience.

*Статтю присвячено узагальненню світового досвіду запобігання розвитку позалегальної економіки. Світовий досвід доводить важливість розробки регуляторної політики протидії поширенню позалегальної економічної діяльності. Обґрунтовано, що на думку більшості дослідників, позалегальна економіка містить три головні елементи: неформальна, прихована, кримінальна. Акцентовано увагу, що головним у запобіганні розвитку позалегальної економіки є створення відповідного інституційного середовища, в якому гарантовані права власності, чітко визначена відповідальність. Узагальнено напрями запобігання розвитку тінювих економічних відносин. Розглянуто основні концепції державної регуляторної політики щодо неофіційної економіки: прямий контроль (покарання); прямий контроль (заохочення); непрямий контроль. З'ясовано, що для забезпечення регуляторного впливу на зменшення обсягів неформальної економіки мають застосовуватися заходи стимулювання її легалізації, але у випадку відсутності в цій сфері ознак кримінальних операцій. Зроблено висновок про те, що легалізація неформальної діяльності стає більш економічно доцільною за рахунок розширення можливостей її здійснення в легальному секторі. Розглянуто заходи щодо запобігання використанню відмивання грошей у національній фінансовій системі в різних країнах. У результаті зроблено висновок про те, що національні системи організаційно-правових заходів протидії тінювій економіці різняться своєю специфікою, проте практика їх використання частково запроваджується в національних реаліях. Вивчено особливості застосування інструменту податкової амністії та/або нульового декларування. Окреслено вплив процесів цифровізації на тінізацію економічних відносин. З'ясовано, що цей вплив є неоднозначним з точки зору запобігання розвитку позалегальної економіки. У підсумку зазначено, що найбільшу складність для регулювання складає діяльність, пов'язана з функціонуванням прихованої частини позалегальної економіки, адже завжди є свідоме бажання підприємця мінімізувати сплату податків, максимізувати власний прибуток та отримати додаткові переваги для ведення бізнесу. У таких умовах, заходи регулювання прихованого підприємництва мають залежати від особливостей самої економічної діяльності підприємця. **Ключові слова:** економіка, національна економіка, позалегальна економіка, розвиток, світовий досвід, тінюва економіка.*

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Introduction. The problem of the functioning of the illegal economy has been in the field of view of scientists for a long time. Actually, this is due to the fact that in none of the countries is the national

economy devoid of an illegal part. For the most part, we are talking about the extent of the spread of the shadow economy in the country, which would significantly harm the development of market mechanisms,

national interests, and overall national security. World experience proves the importance of developing a regulatory policy to counter the spread of illegal economic activity. At the same time, in recent years, under the influence of globalization, new forms of shadowing of economic relations have appeared, and the problems of the development of the illegal economy have turned from local to global.

Analysis of recent research and publications.

Many foreign and Ukrainian scientists were engaged in the study of shadowing of the national economy. In these aspects, the works of foreign and Ukrainian authors are well-known I. Biryukov [1], Z. Varnalii [8], P. Gutman [11], I. Mazur [3; 4], S. Onyshchenko [6], K. Hart [12], F. Schneider [16; 17] and many others.

Despite significant scientific development in this direction, the global experience of applying regulatory policy measures, its generalization in order to achieve the effectiveness of regulation and the application of appropriate measures by types of shadow activities to prevent the development of the illegal economy, needs further research.

Formulation of research objectives. The purpose of the article is to generalize the global experience of preventing the development of the illegal economy.

Presentation of the main results and their justification. In general, the extralegal (shadow) economy is considered as "a complex socio-economic phenomenon, which is represented by a set of uncontrolled and unregulated both illegal and legal, but immoral, economic relations between subjects of economic activity in order to obtain excess profit due to hiding income and evading payment taxes" [8, p. 430]. According to most researchers, it contains three main elements: informal, hidden, criminal [3, p. 15]. Therefore, when it comes to the detinization of economic relations, first of all, it is worth clearly realizing that the main thing in preventing the development of the illegal economy is the creation of an appropriate institutional environment in which property rights are guaranteed, responsibility is clearly defined, and therefore the illegal economy would become ineffective from an economic point of view.

In general, the systematization of foreign experience in the formation of a set of economic detinization measures makes it possible to single out several directions for preventing the spread of shadow economic relations [1]: legislative (normative); tax (fiscal), anti-corruption (transparently declarative), organizational and administrative (cashless oriented).

In addition, it is worth agreeing with the scientific position of K. Williams [18], who differentiates the measures of the regulatory policy of the state in relation to the detinization of economic relations. At the same time, the main goal of state policy should not be the destruction of shadow business, but its maximum involvement in the legal sphere.

In particular, K. Williams [18] singles out three main concepts of state regulatory policy regarding the informal economy: direct control (punishment); direct control (encouragement); indirect control. It should be noted that such concepts can be implemented by appropriate measures that are related to the sphere of manifestation of shadow consequences, as well as the direction of influence on the prevention of the illegal economy.

At the same time, taking into account the presence of types of illegal economy, the measures to prevent its development should also differ, which will contribute to restraining the development of hidden entrepreneurship. The first element of the illegal economy is formed by the informal economy, which is largely related to the informal employment of the population. In this sense, it is worth noting that the problem of informal activity exists in all countries. Thus, K. Hart notes in his research that "the difference between formal and informal income-generating opportunities is based on the difference between employment conditions, i.e. paid or self-employed" [12, p. 68]. However, from the point of view of disclosure of regulatory policy measures to prevent hidden entrepreneurship, informal activity is an undesirable phenomenon for the development of the national economy. At the same time, the world experience of combating informal activities proves that due to repressive measures, the opposite effect is created, that is, it does not give the desired results. In order to ensure regulatory influence on reducing the volume of the informal economy, measures to stimulate its legalization should be applied, but in the event that there are no signs of criminal operations in this area. Informal activity is most widespread in agricultural production or self-employment.

In economically developed countries, the regulation of informal activity includes a significant list of levers that affect the formation of income. The regulation of the activities of small farms, stimulation of the development of their activities in the official sector due to the introduction of a number of preferences is indicative in this regard. Thus, it is expedient to assert that the legalization of informal activity becomes more economically expedient due to the expansion of opportunities for its implementation in the legal sector. Thus, the generalization of direct and indirect measures of legalization in the sector of informal economic activity makes it possible to distinguish two main groups: development support and loss compensation [1].

In any case, detinization measures should be aimed at creating such an institutional environment where business entities perceive entrepreneurship as a "game with fair rules", which provides a favorable environment for legal activity and the inevitability of punishment for illegal economic activity. Among the measures that are applied in countries with a relatively low level of illegal economy, there are counter-

measures against the increase in the volume of the shadow economy, the loss of control mechanisms for economic processes, the spread of corruption, and the formation of a shadow political market. In addition, in recent years considerable attention has been paid to the fight against organized crime, terrorism and prevention of laundering of financial resources obtained in an illegal way.

From the point of view of generalizing the experience of regulatory influence on the detinization of the hidden sector and illegal activity, the measures of influence also differ significantly. This is due to the fact that the illegal sector of the economy, unlike the informal and hidden, significantly affects the development of any country. That is why the measures aimed at such a part of the extralegal economy as illegal (criminal) are measures of restriction or struggle, which involve timely detection, countermeasures, and overcoming the consequences. The importance of this problem is also enhanced by the fact that, since 2002, a significant part of the population (more than 70%) in EU countries has been concerned about international terrorism and the development of organized crime [13].

Precisely in connection with solving the problem of legalization of international economic activity, several organizations were created, the purpose of which is to combat and fight the spread of the shadow economy and the legalization of funds obtained through criminal means on a global scale:

1. The Financial Action Task Force (FATF).
2. Caribbean Financial Action Task Force (CFATF).
3. Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).
4. Eurasian Group for Combating Money Laundering and Terrorist Financing (EAG) Eurasian Group (EAG) [1].

According to the US experience, an effective regulatory effect is the introduction of a number of restrictive measures within the framework of legislative initiatives [2, p. 21].

Measures to prevent the use of money laundering in the national financial system are provided for in Great Britain. In particular, such regulatory measures include: declaring money laundering operations a criminal offense; introduction since 1990 of the Guidelines on combating money laundering for banks, construction, insurance and investment companies; creation of a center for receiving and disseminating information from financial institutions and other sources about suspicious money laundering transactions; establishment of the anti-money laundering regulatory regime for credit and financial institutions as part of a set of measures aimed at implementing the Directive of the Council of Europe [14].

Similar experience in monitoring financial operations, forming a system and mechanisms for financial

control over income of illegal origin exists in almost all countries. In Italy, in particular, a government decree has introduced a ban on cash payments for large sums; in Germany, mandatory declaration of settlements with non-residents was introduced, as well as mandatory notification of suspicious transactions to financial monitoring bodies by banks and financial institutions, lawyers, auditors; the obligation to notify authorized state bodies about large financial transactions is stipulated by Japanese legislation [6].

Similar mandatory actions exist in Australia under the regime of mandatory reporting of large and suspicious cash transactions to the authorized body. It is useful that all assets confiscated in accordance with the Law "On Combating the Proceeds of Crime" and in accordance with the provisions of the Customs Law relating to the receipt of proceeds from drug trafficking, are transferred to the account of the Trust Fund of confiscated assets, with their further direction to national development projects [6].

In Canada, sources of illegal income include drug trafficking, fraud, counterfeiting and smuggling. The Law "On Combating Proceeds from Criminal Activities" provides for the search and seizure of proceeds from criminal activities, followed by their confiscation. In Japan, all financial institutions are required to report suspicious financial transactions to investigative authorities. In addition, the Criminal Code provides punishment in the form of confiscation of property and payment of fines for committing any crimes related to illegal profits or concealment and money laundering (except for small transactions) [10].

Thus, the analysis of the countries' experience proves that the national systems of organizational and legal measures against the shadow economy differ in their specificity, but the practice of their use is partially implemented in national realities.

Many countries use the instrument of tax amnesty and/or zero declaration. Over the past two decades, it was carried out by the USA, Germany, Austria, France, Italy, Spain, Argentina, Belgium, Ireland, India, Pakistan, the Republic of South Africa, the Philippines, Georgia, Kazakhstan, and others. The essence of this method is the introduction at the state level of allowing citizens to voluntarily declare income hidden from taxation, on which tax is paid at a reduced rate [5].

When analyzing the global experience of preventing the shadowing of the economy, the anti-corruption trend in state policy should be singled out separately [15]. According to Transparency International, regarding the corruption component of the shadow economy, "inefficiency, opacity of bureaucratic procedures, corruption of civil service personnel, opacity of decision-making in public management structures, high level of organized crime, fraud and money laundering, political corruption in financing of election companies, weak guarantees of private property rights, corruption

in the legislative power and distrust of the state's anti-corruption policy" [7].

One of the specific features unique to Canada in the implementation of anti-corruption measures is that, by law, business representatives have the opportunity to participate in politics, especially during parliamentary elections [10]. The priority in Germany is to counter and fight against illegal employment and wage dumping on the "black" labor market, which is accompanied by increased control, an increase in the minimum wage, the introduction of differentiation of the minimum wage according to the industry principle, and the elimination of the possibility of setting wages by private businesses with non-compliance legal dimensions [17].

In recent years, the digitalization of the economy has begun to have a significant impact on the problems of the shadowing of economic activity. At the same time, the rapid development of IT technologies, the use of mobile applications can become a new opportunity for detinization of the economy, as evidenced by the rapid development of electronic commerce and measures to regulate it [9]. This is due to the lack of a standard list of measures to prevent hidden activities, as the processes are constantly being improved, complicated and require new solutions. Thus, the growth of the use of digital technologies in everyday life, on the one hand, expands their use in business, but on the other hand, it complicates the control over the circulation of electronic transactions. This can simultaneously create conditions for facilitating the transition of shadow business into the legal sphere, but the reverse process for the economy is also possible. Establishing a digital business identity, using digital payment tools increases efficiency and transparency in both public and private transactions, but at the same time contributes to an increase in card fraud.

Conclusions and prospects for further research. Therefore, the regulation of operations related to the functioning of the criminal (illegal) component of the shadow economy is aimed at stopping, fighting and countering the legalization of proceeds obtained through crime. Accordingly, the measures of such activities involve detection through monitoring and control of financial transactions, setting restrictions on the implementation of certain types of activities.

The greatest difficulty for regulation is the activity related to the functioning of the hidden part of the illegal economy, because there is always a conscious desire of the entrepreneur to minimize the payment of taxes, maximize his own profit and get additional benefits for doing business. In such conditions, measures to regulate hidden entrepreneurship should depend on the peculiarities of the entrepreneur's economic activity.

Today, the spread of digitization tools in the economy is growing rapidly: blockchain; electronic busi-

ness registration; electronic declaration; electronic tax administration; use of electronic payroll technologies. These measures contribute to increasing transparency and simplifying business, but at the same time make it more difficult to control economic transactions in networks.

The study of foreign experience regarding the application of measures to prevent the development of the illegal economy proves the feasibility of developing an appropriate regulatory policy by the Ukrainian government with differentiation of measures depending on the type of the illegal economy itself. In addition, the legal and organizational support for the prevention of the development of the illegal economy has its own national characteristics, and the practical aspects of their use make it possible to adapt positive experience in the national economy.

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