

## Monitoring the effectiveness of special legal regimes of economic activity: principles, indicators and vectors

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**Annotation.** The article is devoted to improving the theoretical and methodical aspects of functioning of special legal regimes of economic activity in terms of monitoring their effectiveness, which is proposed to be considered through a triad of components: principles, indicators and vectors. The author argues that the system of monitoring the results of economic development and special legal regimes of economic activity lies in the plane of development, security and responsibility vectors, for each of which a pool of indicators is defined. The author proves the priority of indicators which are reflected in the development strategies of territorial communities, plans for their implementation, economic profile and investment passport of territorial communities with a view to assessing the effectiveness of the results of special legal regimes of economic activity.

**Keywords:** special regime of economic activity, legal regime of martial law, economic activity, monitoring, order, effectiveness, regulation

### Моніторинг ефективності спеціальних правових режимів господарювання: принципи, показники та вектори

**Анотація.** Наукову статтю присвячено удосконаленню теоретико-методичних аспектів функціонування спеціальних правових режимів господарювання в частині моніторингу їх ефективності, який пропонується розглядати через тріаду компонентів: принципів, показників та векторів. Моніторинг ґрунтується на групі принципів, найважливішими з яких виступають цілеспрямованість; системний підхід; комплексність; безперервність спостереження за об'єктом моніторингу; систематичність збору, обробки та аналізу інформації; узгодженість нормативно-правового та організаційно-методичного забезпечення; сумісність технічного, інформаційного і програмного забезпечення розвитку економіки та спеціальних правових режимів (механізмів) господарювання та ін. Аргументовано думку про те, що система моніторингу результатів спеціальних правових режимів господарювання лежить у площині векторів розвитку, безпеки та відповідальності, за кожним з яких визначено пул показників, в основі яких – положення проекту Закону України «Про Стратегію сталого розвитку України до 2030 року». Серед показників, згрупованих за відповідними цілями та визначених Державною стратегією регіонального розвитку на

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2021-2027 роки, для проведення моніторингу результатів запровадження спеціальних правових режимів (механізмів) господарювання пропонується використовувати наступні показники відповідно до таких цілей: формування згуртованої держави в соціальному, гуманітарному, економічному, екологічному, безпековому та просторовому вимірах та підвищення рівня конкурентоспроможності регіонів. У статті також доведено пріоритетність показників, які відбиваються в стратегіях розвитку територіальних громад, планах їх реалізації (які мають бути актуалізовані в умовах воєнного стану, враховуючи збитки), економічному профілі та інвестиційному паспорті територіальних громад з метою оцінки ефективності результатів спеціальних правових режимів господарювання.

**Ключові слова:** спеціальний режим господарювання, правовий режим воєнного стану, господарська діяльність, моніторинг, порядок, ефективність, регулювання

### Introduction

The full-scale Russian invasion has brought new realities to Ukraine to ensure the vital activity of the population and business entities. Today, the main issues are territorial defence and protection of sovereignty, integrity and inviolability in accordance with the Constitution of Ukraine. Under these conditions, the functioning of state authorities and local self-government bodies, the Armed Forces of Ukraine, civil defence forces, and business entities of all forms of ownership takes place in special military conditions, which requires proper legal regulation as the basis for the national defence potential and ensuring the vital activity of the state.

Military, social, economic, political, informational and other priorities underlie the protection of the sovereignty and territorial integrity of our country, where issues of macro- and microeconomic stability play a crucial role in stabilising the economy, where issues of special economic regimes are of priority importance for the revival of our country's potential. These and other arguments necessitate the study of various aspects of legal regulation of economic activity under martial law and increase the relevance of the issue of monitoring the effectiveness of special legal regimes of economic activity, which is important for the implementation of tasks aimed at identifying and eliminating gaps in Ukrainian legislation in order to ensure the reliability of the legal and economic system.

The study of the legislation on the procedure for conducting economic activity during the special period was the subject of works by such foreign researchers as W. Shen and M. Vanhullebusch [1], K. Luo and K. Howe [2]. Among Ukrainian scholars, O. Zeldina [3], V. Mamutov [4], L. Taran [5], V. Chaikovska [6] and many others have dealt with this issue. While positively assessing the scientific results of this issue, it is necessary to note the need to develop these studies in terms of studying the peculiarities of formation of legislation on the procedure for conducting economic activity under martial law, as well as monitoring the effectiveness of special legal regimes of economic activity.

The purpose of the article is to substantiate the theoretical and methodical foundations of functioning of special legal regimes of economic activity through the prism of principles, indicators and vectors of monitoring their effectiveness.

### Results

In the previous scientific article, the author examined the theoretical foundations of the special economic regime and legal regulation of economic activity (theoretical approaches to understanding the essence of the special economic regime as an economic and legal category; architectonics of the special economic regime (types, kinds, forms, objectives, principles) and its place in the system of economic legislation; comparative analysis of acts of legal regulation of the special economic regime, peculiarities of formation and development of Ukrainian legislation on the procedure for conducting economic activity under martial law; means of state

regulation of economic activity in modern conditions; legal characteristics of instruments for stimulating economic activity to restore the economy of the state), the experience of using a special economic regime in the European legal paradigm, the author emphasises the complementarity of modernisation of Ukrainian legislation and transformation of the state economic policy of Ukraine due to the war.

The economic and legal analysis of the special economic regime and the socio-economic situation of regions and territorial communities in wartime has led to the conclusion that the eastern and southern regions of Ukraine suffered the most, but the Autonomous Republic of Crimea and certain districts of Donetsk and Luhansk oblasts will be potential regions - candidates for the introduction of a special economic regime in the post-war period after de-occupation due to their long-term isolation.

Today, under martial law and taking into account the socio-economic prerequisites, three types of special legal regimes (mechanisms) of economic activity may be introduced:

- encouraging and restrictive special legal regime (mechanism) of economic activity with the use of incentives/restrictions for territorial communities and business entities;
- encouraging special legal regime (mechanism) of economic activity with the use of incentives for territorial communities and business entities;
- restrictive special legal regime (mechanism) of economic activity using restrictions for territorial communities and business entities.

The following means of state influence on the activities of business entities are used as incentives and restrictions: state orders; licensing, patenting and quotas; technical regulation; application of standards and limits; regulation of prices and tariffs; provision of investment, tax and other benefits; provision of grants, compensation, targeted innovations and subsidies, etc.

However, given the presence of such a factor as the emergence of potentially dangerous territories along the border with Russia, such restrictions as a ban on certain types of economic activity that are strategic for the country's economy may be introduced. This content should be agreed with the Ministry of Strategic Industries of Ukraine, which is responsible for the development and implementation of the state industrial and military-industrial policy, state policy in the field of defense procurement and the defense industry, as well as in the aircraft industry and space activities. In order to determine the territories where business entities operate and to which a special legal regime (mechanism) of incentives and restrictions may be applied, a register of such entities should be formed.

Unfortunately, the legal regime of martial law, which has been in place in Ukraine since 24 February 2022, has had negative consequences for the development of the entire country and its individual territories: the destruction of critical infrastructure, the relocation of a significant number of enterprises and large volumes of internal and external migration - these and other circumstances force representatives of state and local authorities, academics and practitioners to look for ways to restore the affected territories. Scholars are convinced that one of the most effective tools for building national and regional economies is the introduction of special legal regimes (mechanisms) in the affected areas. Given the socio-economic prerequisites, we are currently talking about the possibility of introducing an incentive-restrictive, incentive-restrictive or restrictive special legal regime (mechanism) of economic activity using an appropriate set of incentives or restrictions for the restoration of territorial communities and business entities.

However, in order to implement and achieve their tasks, state authorities and local governments need to monitor the results of economic development and special legal regimes (mechanisms) of economic activity, the system of which should be studied in more detail. Therefore, the monitoring system should be based on the principles of:

- focus – orientation towards achieving goals and solving specific tasks of economic development and special legal regimes (mechanisms) of economic activity;

- systematic approach – studying the interrelationships of the monitored object with other objects of economic development and special legal regimes (mechanisms) of economic activity;
- comprehensiveness – monitoring of certain areas of socio-economic development and special legal regimes (mechanisms) of economic activity;
- continuity of monitoring of the monitored object – special legal regime (mechanisms) of economic activity;
- systematic collection, processing and analysis of information on economic development and special legal regimes (mechanisms) of economic activity;
- coherence of regulatory, legal, organisational and methodological support, compatibility of technical, information and software support for economic development and special legal regimes (mechanisms) of economic activity;
- objectivity of primary, analytical and forecast information and promptness of its communication to public authorities and local self-government bodies;
- openness and accessibility of monitoring results to the public;
- comparability of monitoring indicators and targets over time.

According to the draft Law of Ukraine "On the Strategy for Sustainable Development of Ukraine until 2030", the monitoring of the Strategy implementation and evaluation of its effectiveness is carried out using the following key target indicators:

*development vector:* GDP growth rate (%), share of high-tech products and services in the structure of exports of goods and services (%), share of food industry products and processing of agricultural raw materials in exports of groups 1-24 of the Ukrainian Classification of Goods for Foreign Economic Activity (%), number of employees in medium and small enterprises, individuals – small businesses (million people), position in the Doing Business ease of doing business rating, share of energy produced from renewable sources in the total final energy consumption (USD GDP, resource intensity of GDP (share of natural resources per unit of GDP) (%), degree of depreciation of fixed assets by type of economic activity "Transport, warehousing, postal and courier activities" (%), share of public roads with hard surface that meet regulatory requirements (%), share of innovative products sold in the volume of industrial output (%), share of the value of scientific and technical works performed in GDP (%), labour productivity in agriculture (thousand USD per one employed in agriculture), USD per person employed in the agricultural sector), area of agricultural land under organic production (thousand hectares), share of cities, districts and regions that have approved and are implementing sustainable development strategies/plans developed with public participation (%);

*security vector:* level of public trust in the courts (%), index of perception of corruption in the public sector by business circles and experts (Corruption Perceptions Index according to Transparency International methodology), share of women aged 15-49 who have experienced at least one form of physical or sexual violence (%), number of deaths as a result of road traffic accidents per 100,000 population, discharges of untreated wastewater into water bodies (of the total volume of water disposal) (%), volume of waste generated by all types of economic activity per unit of GDP (kg/1000 USD), share of recycled waste per unit of GDP (kg/1000 USD), share of recycled and disposed waste in the total amount of waste generated (%), share of recycled waste accumulated at disposal sites in the total amount of accumulated waste (%), share of greenhouse gas emissions compared to 1990 (%), share of the area of territories and objects of the nature reserve fund of coastal regions in the total territory of coastal regions (%), share of the area of territories and objects of the nature reserve fund in the total territory of the country (%), forest cover of the country (%);

*responsibility vector*: share of the population whose average per capita equivalent total expenditure is below the actual (estimated) subsistence minimum (%), share of people whose daily consumption is below USD 5.05 per PPP (%), net enrolment rate of children under 5 years of age in preschool educational institutions, share of the poor, covered by state social support in the total number of poor people, employment rate of the population aged 20 to 64 (%), share of rural households that suffered from deprivation due to lack of timely emergency medical services (%), the share of rural households that suffered from deprivation due to the lack of a medical facility near their homes (%), the share of rural households that suffered from deprivation due to the lack of regular daily transport links to another settlement with developed infrastructure (%), the share of women among the members of the Verkhovna Rada (%), the share of women among the members of regional councils and local councils of cities of regional significance (%), the share of women among senior government officials (category A positions) (%) [7].

To monitor the results of the introduction of special legal regimes (mechanisms) of economic activity, it is proposed to use the following key target indicators out of the above key target indicators:

*development vector*: number of employed workers at medium and small enterprises, individuals - small business entities, position in the Doing Business ease of doing business rating, degree of depreciation of fixed assets by type of economic activity, share of public roads with hard surface that meet regulatory requirements, share of innovative products sold in the volume of industrial output, labour productivity in agriculture, etc;

*security vector*: discharges of untreated wastewater into water bodies, volume of waste generated by all types of economic activity, share of recycled and disposed of waste in the total volume of waste generated, share of recycled waste accumulated in disposal sites in the total volume of accumulated waste, share of greenhouse gas emissions, etc;

*responsibility vector*: share of the population whose average per capita equivalent total expenditures are lower than the actual (estimated) subsistence level, the share of people whose daily consumption is below USD 5.05, the employment rate of the population aged 20 to 64, the share of rural households that suffered from deprivation due to the lack of regular daily transport links to another settlement with developed infrastructure, etc.

The State Strategy for Regional Development for 2021-2027 provides for the following indicators for monitoring the achievement of the strategy's goal, which are grouped by objectives [8]:

formation of a cohesive state in the social, humanitarian, economic, environmental, security and spatial dimensions: the ratio of the number of labour force aged 15-70 to the total population of the corresponding age (%), disposable income per capita (UAH), the share of the population with average per capita equivalent total income per month below the actual subsistence level (%), average monthly wage (UAH). ), provision of up-to-date urban planning documentation (developed after 2010) (%), provision of up-to-date urban planning documentation (developed after 2010) with mandatory consideration of recommendations on inclusion of climate issues in state planning documents, share of territories and objects of the nature reserve fund in relation to the area of the state (region) (%), share of the area of the national ecological network in the total territory of Ukraine (%), forest cover of the territory of Ukraine (%), share of arable land (cropland) in the total territory of Ukraine (%), share of agricultural land of extensive use (hayfields, pastures) in the total territory of Ukraine (%), organic carbon (humus) content in agricultural land soils (%), area of restored lands and ecosystems, area of reclaimed lands and lands undergoing conservation measures (hectares), share of the population visiting libraries, share of the population attending cultural events throughout the year, share of the population involved in creative and artistic activities, share of the population believing that their place of residence has sufficient opportunities for creative

and artistic development of children (%), number of monuments where repair and restoration works have been carried out (%), number of unique objects of cultural heritage of Ukraine;

increasing the level of competitiveness of regions: foreign direct investment per capita at the regional level (USD), share of innovative products (goods, services) sold in the total volume of products (goods, services) sold by industrial enterprises (%), density of public roads of state and local importance with hard surface, share of social institutions (schools, administrative service centres, primary healthcare institutions, secondary healthcare institutions, vocational education institutions, cultural institutions, social protection institutions, inclusive resource centres, fire and rescue teams, fire and rescue units, departmental institutions of the Ministry of Internal Affairs, pre-schools, sports and recreation facilities) using fixed broadband Internet access (%), share of the population with access to 4G mobile networks (%), level of digital literacy of the population (basic or above basic level of literacy) (%);

development of effective multi-level governance: the amount of funds of the state regional development fund for the relevant budget period in accordance with the legislative requirements, the number of regional development agencies.

To monitor the results of the introduction of special legal regimes (mechanisms) of economic activity for the above purposes, it is proposed to use the following:

1. Formation of a cohesive state in social, humanitarian, economic, environmental, security and spatial dimensions: the ratio of the labour force aged 15-70 to the total population of the corresponding age (%), disposable income per capita (UAH), the share of the population with average per capita equivalent total income per month below the actual subsistence level (%), average monthly wage (UAH), etc.
2. Increasing the level of competitiveness of the regions: foreign direct investment per capita at the regional level (USD), share of innovative products (goods, services) sold in the total volume of products (goods, services) sold by industrial enterprises (%), density of public roads of state and local importance with hard surface, share of the population with access to 4G mobile networks (%), etc.

However, the main indicators for monitoring the results of special legal regimes of economic activity in order to assess the effectiveness of their implementation are reflected in the development strategies of territorial communities and their implementation plans, which should be updated under martial law in order to avoid losses. Therefore, the rules governing special legal regimes of economic activity should contain goals to be achieved and key indicators of local development, based on the economic profile and investment passport of territorial communities.

The economic profile of the community is the main document for identifying negative development trends, assessing the economic potential of the community, making high-quality and effective management decisions based on the selection of priority development areas and creating a strategy for attracting investment.

The created economic profiles of territorial communities will help improve the quality of life of residents and the integration of IDPs and relocated businesses into the economic space of host communities, i.e., local economic development of the community, in particular through the introduction of special legal regimes for economic activity. For each community, the economic profile is a kind of passport [9].

The statistical information, as well as the data, indicators and metrics contained in this document, help not only to assess the state of affairs in the community, but also outline opportunities for its further development, reflect potential levers and possible instruments of influence. The document substantiates the direction of possible cooperation between representatives of the authorities, local and relocated businesses, IDPs and local residents, indicating the types of economic activity and areas of the national economy that require additional attention and/or are priorities for economic development. The creation of a

community profile is a prerequisite for the introduction of special legal regimes of economic activity.

Economic profiles containing potential points and tools for stimulating local economic development are presented on the example of communities in Lviv Oblast. The economic profiles of territorial communities were developed by the Agency for Local Economic Development of Yavoriv District within the framework of the project "Formation of Local Economic Development Programmes through the Integration of Displaced Enterprises and IDPs into the Economic Life of Local Communities", which was made possible by the United States Agency for International Development (USAID) and the support of the American people through the USAID HOVERLA Project [10]. As for investment passports, all of them should be updated by territorial communities, taking into account the consequences of the war.

However, in the context of monitoring and controlling the results of the introduction of special legal regimes of economic activity and the creation of special (free) economic zones as a means of state stimulation of economic development of certain territories, scientific and applied developments deserve special attention [11, p. 245-247]. These developments were carried out in the context of a comprehensive systematic analysis of the current theoretical, legal, organisational, methodological and practical aspects of the problem of ensuring efficient use of public funds with the help of economic and legal means with a view to ensuring the legal economic order in Ukraine and successful socio-economic transformations, which should be developed in further research.

### **Conclusions**

The conducted research has made it possible to establish the expediency of introducing new special legal regimes of economic activity for the purpose of providing state support to the destroyed and depressed territories. Today, under the legal regime of martial law, it is important to solve the problems faced by the state, local territories, and certain sectors of the economy, increase budgetary and extra-budgetary financial revenues to the economy of destroyed (underdeveloped) communities and regions, introduce incentives for business entities to intensify economic activity; reintegrate the de-occupied territories of the Autonomous Republic of Crimea and certain districts of Donetsk and Luhansk regions into a single legal, informational, socio-economic, and social environment. These tasks can be solved through the introduction of monitoring of the effectiveness of the implementation of special legal regimes of economic activity, the assessment of which should be based on a monitoring system in accordance with the areas of development.

The results of the analysis of the economic and legal prerequisites for the introduction of a special economic regime in the regions of Ukraine made it possible to emphasise the expediency of introducing an incentive-restrictive special economic regime in the territories with special conditions for development. This made it possible to identify the objectives and principles of monitoring the results of the functioning of special economic regimes in accordance with the established key indicators, which are systematised by subject matter criterion. Further scientific research in the context of special legal regimes of economic activity should be in the area of systematic analysis of the relevant aspects of this issue for successful socio-economic transformations under martial law in Ukraine.

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