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Features of Support of Business Entities by State and Local Authorities under Martial Law in Ukraine

Olena A. Uliutina*

National University of Life and Environmental Sciences of Ukraine
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

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Abstract

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The relevance of the chosen subject is due to the full-scale invasion of Ukraine by the Russian Federation on February 24, 2022, and the introduction of martial law, which has already been extended several times. In this regard, business entities require certain support measures to preserve the economic potential of the state. The purpose of the study is to review the capabilities of local self-government bodies to support small, medium, and large businesses under martial law in Ukraine. The research methods were: comparative, system-structural, and formal-legal. The results of the study determined that the state and local government bodies from the first days of the war took and continue to take organisational and legal measures to support all business entities in conducting their business on the territory of Ukraine under martial law. It was identified that the legislative and executive authorities have adopted a number of legal regulations and bylaws aimed at introducing tax benefits and compensations for the maintenance of internally displaced persons, developing mechanisms for the relocation of those business entities that do not have the physical ability to continue operating in the temporarily occupied territories or in the territories where active military operations were conducted or are being conducted. The substantial involvement of local self-government bodies (on the example of the Kyiv City Council) in the development of measures to support business entities that conduct their commercial activities in the relevant administrative-territorial unit is argued. Thus, the decisions of the Kyiv City Council introduced a number of benefits aimed at: exemption from the payment of rent of communal property by such entities, partial exemption from payment for parking, exemption from land tax and rent for land by those entities (with the list fixed by the decision of the Kyiv council) that use land plots to accommodate their premises, which are used for the needs of national resistance, protection, public order, food security. The materials of this study can be useful in the investigation of the disciplines of "Economic Law", "Municipal Law", "Administrative Law"

Keywords: war, local self-government bodies, taxes, benefits, compensation, business

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*Corresponding author

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Introduction

Recently, business entities are increasingly suffering from emergency situations that occur in Ukraine. At first, it was the COVID-19 pandemic, which lasted almost three years, and since 2022, there are still military operations on the territory of Ukraine.

On February 24, 2022, the Russian Federation launched a full-scale invasion and launched the first missile strikes on the territory of Ukraine. On the same day, the president of Ukraine issued and submitted for approval by the Verkhovna Rada of Ukraine a Decree on the imposition of martial law in Ukraine for a period of thirty days [1], which was twice extended for the same period and by the latest Decree of the president of Ukraine the term of martial law until August 23, 2022. Due to the introduction of a legal regime of martial law, an exhaustive list of constitutional rights may be limited. In particular, this list includes Art. 42-44 of the Constitution of Ukraine, which guarantee certain labour guarantees for state protection of business activities, the right to work, and guarantees for timely payment of wages for their activities [2].

Considering such factors, there is an objective need for the support of business entities by state authorities and local self-government bodies within the limits of their powers.

The purpose of the study is to conduct a comprehensive analysis of the impact of martial law in Ukraine on business activities and examine the implemented measures to support business by state and local authorities.

The analysis of recent papers and studies confirms the relevance of the chosen subject because comprehensive investigations of the mechanism of support for business entities by state and local authorities have not yet been performed. However, the papers that analysed certain issues of support for business entities by state and local authorities are notable. In particular, the study of Hiromi Masuda, Shun Kawakubo, Mahesti Okitasari, Kanako Morita examines how local authorities have promoted partnerships to achieve Sustainable Development Goals, especially partnerships with the private sector. The study analyses the activities of mediation entities between businesses and local authorities. It is stated that intermediaries have increased the percentage of trust of business entities in local self-government bodies [3]. Closer to the chosen subject is the work of Chia-Chien Chang [4], in which the researcher investigated the impact of war and war financing on the state's tax system. The author conducted a comparative analysis of United States military funding during the Korean and Vietnam wars. Ultimately, claiming that public authorities can successfully introduce progressive taxation and reduce non-military spending to pay for the war. Quite a large number of studies consider the support of business entities in the context of the COVID-19 pandemic because like the war, in this case, the pandemic has become a driving force that has dealt a blow to the activities of business entities. Thus, H. Jia,

S. Zhang, R. Xu, Q. Zhang, and B. Guo investigated the impact of the pandemic on small and medium-sized businesses and argued for the need to introduce substantial tax benefits for such businesses. They determined that small and medium-sized businesses play an important role in the economic development of the state. Small and medium-sized businesses have the typical characteristics of "five, six, seven, eight, nine", that is, they account for over 50% of national tax revenues, over 60% of GDP, over 70% of technological innovation achievements, over 80% of employed, and over 90% of the number of enterprises [5]. The work of Anna Kosieradzka and Justyna Smagowicz [6], also examines the impact of the pandemic on the possibility of doing business in the state and the direct dependence of support for state authorities and local self-government on the further activities of business entities in difficult times.

The scientific significance of this study lies in the fact that for the first time a comprehensive analysis of the main measures of support for business entities by state and local authorities has been conducted since the introduction of martial law on the territory of Ukraine.

Materials and Methods

The study can be divided into two consecutive stages.

Thus, in the first stage, the general impact of the introduction of martial law on the territory of Ukraine on the activities of business entities was investigated. The main regulations of state authorities on supporting business entities in war conditions are analysed.

In the second stage, an analysis of the support of business entities by local self-government bodies (on the example of the capital of Ukraine – Kyiv) in war conditions is conducted. The study analyses the decisions of the Kyiv City Council regarding the support of businesses operating in the city.

In the third stage, conclusions are drawn on the means of supporting the business by state and local government bodies under martial law in Ukraine.

In the process of investigating the main means of supporting the business by state and local authorities in the context of a full-scale invasion of the Russian Federation and military aggression, a set of general scientific and special legal methods was used. In particular, using the comparative method, the impact of martial law on the implementation of commercial activities by business entities was analysed. Using the system-structural method, the main regulatory and bylaws on supporting business entities under martial law by state and local authorities were analysed. The formal legal method was used in the development of legal provisions concerning the introduction of martial law on the territory of Ukraine.

During the analysis of business support tools under martial law, a number of legal regulations and by laws of Ukraine were used. In particular: the Constitution of Ukraine [2], Presidential Decree No. 64/2022 [1], Law

of Ukraine No. 2118-IX [7], Law of Ukraine No. 2115-IX [8], Law of Ukraine No. 2120-IX [9], Resolution of the Cabinet of Ministers of Ukraine No. 331[10], Decision of the Kyiv City Council No. 4551/4592 [11].

Results and Discussion

From the first days of the war, being in a state of shock, most business entities are forced to temporarily stop their activities, to preserve their own business and the lives and health of their employees.

The economic front of the state during the war is one of the important aspects, ensuring the activities of which allows filling the national and local budgets.

The war caused damage to almost every operating business in Ukraine, thereby causing additional losses of hundreds of billions of dollars. Increasing the level of business development capacity in Ukraine is a key factor in strengthening the economic stability and independence of the state, which can support the economic rear of Ukraine and resist the aggressor.

As the Chairman of the Budget Committee of the Verkhovna Rada rightly notes, it is the restart of the economic space in wartime that should become one of the main goals of the state, because this will contribute to the restoration of the domestic market, increase the financial support of state and local budgets, create new or preserve existing jobs, and encourage citizens who have left to return to Ukraine [12].

In connection with the understanding of the difficult situation in which business entities find themselves, and to ensure their activities, the legislative body of Ukraine adopted a number of necessary legislative acts that provide for the support of business in war conditions.

In particular, one of the first legislative acts that was adopted in the first days of the war was the Law of Ukraine "On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Concerning the Peculiarities of Taxation and Reporting During Martial Law" [7], which provides for the suspension of reporting deadlines and tax audits. In particular, the key features of this regulation are the following provisions: persons may be exempt from liability (financial, administrative) if during the period of martial law they do not have the physical ability to pay mandatory payments (taxes and fees) without delay; activities related to the provision of charitable assistance for the Armed Forces of Ukraine, Territorial Defense Forces, civil protection forces, or medical institutions are not taxed; socially substantial food, medical and medicinal products, and means determined by the Cabinet of Ministers of Ukraine are exempt from import duties; business entities that do not have the ability to use registrars for settlement operations are also exempt from liability [7].

According to the Law of Ukraine "On the Protection of the Interests of the Subjects of Reporting and Other Documents During Martial Law or State of War" [8], it is stipulated that during the period of martial law and within three months after the end or cancellation of

martial law, business entities cannot be subject to criminal or administrative liability for failure to submit all types of reports. Such reporting documents must be submitted within six months after the end or lifting of martial law on the territory of Ukraine [8].

The so-called tax incentives for business during the war are provided for by the Law of Ukraine "On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Concerning the Effect of Norms for the Period of Martial Law" [9] (hereinafter – the Law of Ukraine No. 2120).

According to the Law of Ukraine No. 2120, the following changes were introduced: for the period of martial law, not only sole proprietors who were on simplified tax systems but also large enterprises can pay a single tax. The Law of Ukraine No. 2120 increased the income limits for the use of a single tax from 10 million to 10 billion. Such concessions gave more enterprises the opportunity to reduce the tax burden during martial law in Ukraine and maintain their activities in general. In addition, in accordance with this law, such business entities got lifted restrictions on the number of employees and types of activities (with the exception of economic activities related to gambling business or the sale of excise goods). Some features of calculating certain mandatory payments (taxes and fees) under martial law were also identified. This applies to the single social contribution, land payments, environmental tax, etc. In addition, the value-added tax rate was reduced to 7% and the fuel excise tax was exempted. The latest innovation, which is also aimed at reducing the tax burden, was the release of the consumer from liability to the lender in case of late fulfilment of obligations under the concluded consumer lending agreement, the restriction of monthly remuneration to civil servants in the amount of ten wages, and exemption from taxation of personal income tax assistance to persons affected by military operations on the territory of Ukraine [9].

Despite the fact that part of the Ukrainian business in the near future cannot resume its activities in certain territories of Ukraine that are temporarily occupied and where active military operations were conducted or are being conducted, the Cabinet of Ministers of Ukraine has put into effect the "programme on temporary relocation of enterprises from the affected regions". In accordance with the provisions of this programme, enterprises that have the opportunity and plan to move to safer regions of Ukraine will be provided with assistance in finding places to establish their production facilities, and transporting their personnel, or finding new employees. Thus, the programme is focused on preserving the entire labour and production potential of Ukraine to move the activities of business entities from the more dangerous, temporarily occupied territories of Ukraine to safer ones. Such enterprises applying for the nearest relocation should be provided with conditions for free relocation to a certain place of relocation [13].

In addition, within the framework of this study, it is necessary to mention the compensation to employers for salary costs for employed displaced persons (hereinafter referred to as IDPs), which is provided for by the resolution of the Cabinet of Ministers of Ukraine of 03/20/2022 No. 331 "On Approval of the Procedure for Providing the Employer with Compensation for Labor Costs for Employment of Internally Displaced Persons as a Result of Hostilities During Martial Law in Ukraine" [10]. Thus, in accordance with the provisions of this resolution, a certain stable amount of money was determined, which is provided every month to an employer who has employed an internally displaced person. Therewith, it is a mandatory requirement that such an employer pays the SSC (single social contribution) during the period of martial law, and within 30 days after its cancellation or termination. However, such payments for the employer may not exceed 2 months from the date of official employment of an internally displaced person [10]. The employer can submit an application through the portal "Diia" or personally visit the employment centre to submit an application to receive such assistance. Therewith, compensation is provided to the employer if the relevant conditions are met, namely: the employer submitted reports for the 4th quarter of 2021; the employer is a payer of the SSC (single social contribution) for social insurance [10].

The above-mentioned normative legal regulations and bylaws indicate substantial support by state authorities for business entities during martial law to preserve the economy in general and fill the state budget of Ukraine.

In addition to state authorities, local self-government bodies took an active part in supporting the activities of business entities in war conditions.

Thus, the Kyiv City Council is a local self-government body in the capital of Ukraine. In particular, according to the decision of the Kyiv City Council No. 2102-IX [11], a number of benefits are provided for the activities of business entities of the city of Kyiv. Business entities that remain and continue their activities in the capital during the period of martial law are exempt from paying rent for the communal property that they rent. In addition, it is determined that if the tenant does not have the opportunity to use communal property, due to objective reasons (for example, its damage as a result of military operations on the territory of Kyiv), the fee for such property is one hryvnia, and the amount of share involvement for such entities is 50% of the previously established amount. In addition, public catering establishments that have summer terraces also have the opportunity to pay a symbolic one hryvnia for such an attachment. As for business entities that provide advertising services, they are exempt from paying for the right to temporarily use places where outdoor advertising tools are placed. The latest innovation was that owners/users of automobiles or other vehicles were exempt from paying for the placement of

their vehicles on sites provided by the municipal enterprise "Kyivtransparkservice" [11].

On May 14, 2022, the decision of the Kyiv City Council No. 4579/4620 was adopted, which expanded the list of business entities that will enjoy benefits. In particular, a number of business entities that occupy and use land plots to accommodate their premises, which are used for the needs of national resistance, protection, ensuring public order, ensuring food security, etc., were temporarily exempt from paying land tax and rent [14].

Thus, it is possible to summarise that local self-government bodies, feeling responsible for preserving the business that operates on their administrative territory, try to support Ukrainian business by all possible and necessary legal and organisational means, providing them with tax benefits at the local level, and exempting it from paying certain local fees.

The martial law imposed in Ukraine has a substantial negative impact on the economic potential of the state. Analysing the experience of Israel, which constantly suffers from military conflicts and exists in conditions of a constant military threat, it is possible to examine the positive experience of this state in supporting businesses, which from time to time also suffer from the consequences of war. Thus, Israeli state authorities primarily support companies, both small and medium-sized, engaged in the production of the country's defence support, including those focused on export production. Thus, the state provides two fronts at once: the military, because it is always ready for any military conflicts, and the economic – medium and large businesses for the production of weapons and military equipment constantly increase Israel's GDP [15]. Although, the losses for businesses in Israel are much less than the losses caused to businesses in Ukraine for the period from 2014 to 2022. Therefore, during the post-war reconstruction period, Ukrainian state authorities need to consider the possibility of developing mechanisms to support enterprises engaged in the production of weapons and military equipment. Also to increase the level of interaction between the business and the state and local self-government bodies need to introduce the institution of intermediaries between business entities and state authorities, local self-government bodies, this will also increase the economic potential of Ukraine.

Conclusions

The conduct of full-scale military operations on the territory of Ukraine has made it necessary to support business entities by the state and local self-government bodies. Since the first days of the war, state and local authorities have adopted legal regulations and bylaws aimed at supporting business entities of all types and forms of ownership to ensure the economic potential of the state. Such measures can be divided into: those aimed at reducing the tax burden; compensating and reimbursing expenses for the maintenance of IDPs;

relocating businesses. In the conditions of war, a number of small and medium-sized businesses as of mid-2022 effectively moved from the territories of Kherson, Mykolaiv, Donetsk, and Luhansk regions to the western regions of Ukraine and continue to replenish local and national budgets of Ukraine, thus ensuring the economic front of confrontation with the military aggression of a neighbouring state.

In addition to state authorities, active measures to support business entities are organised by local self-government bodies within the limits of their powers. Thus,

analysing the Kyiv City Council as a local self-government body, it is possible to note many counter-steps for business entities that conduct their commercial activities on the territory of the city of Kyiv. This applies to the exemption from rent for communal property, free parking, exemption from land rent for some enterprises, etc.

In the post-war period, it is advisable to consider the possibility of creating an institution of intermediaries between business entities and state and local authorities, focus on supporting businesses engaged in the production of weapons and military equipment.

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Особливості підтримки суб'єктів господарювання органами державної та місцевої влади в умовах воєнного стану в Україні

Олена Анатоліївна Улютіна

Національний університет біоресурсів і природокористування України
03041, вул. Героїв Оборони, 15, м. Київ, Україна

Анотація

Актуальність обраної тематики зумовлено повномасштабним вторгненням 24 лютого 2022 р. російської федерації на територію України та запровадженням воєнного стану, що вже був продовжений кілька разів. У зв'язку з цим суб'єкти господарювання потребують певних заходів підтримки задля збереження економічного потенціалу нашої держави. Метою дослідження виступає огляд можливостей органів місцевого самоврядування щодо підтримки малого, середнього та великого бізнесу в умовах воєнного стану в Україні. Методами дослідження стали: компаративний, системно-структурний та формально-юридичний. Результатами дослідження було встановлено, що органи державної влади та місцевого самоврядування з перших днів війни вживали та продовжують вживати організаційно-правових заходів щодо підтримки всіх суб'єктів господарювання у веденні їхнього бізнесу на території України в умовах воєнного стану. З'ясовано, що органами законодавчої та виконавчої влади ухвалено низку нормативно-правових та підзаконних нормативно-правових актів, що спрямовані на впровадження податкових пільг, компенсацій та відшкодувань на утримання внутрішньо-переміщених осіб, напрацювання механізмів для релокації тих суб'єктів господарювання, що не мають фізичної можливості продовжувати здійснювати свою діяльність на тимчасово окупованих територіях чи на територіях, де велися або ведуться активні бойові дії. Аргументовано значну участь органів місцевого самоврядування (на прикладі Київської міської ради) у розробленні заходів з підтримки суб'єктів господарювання, що здійснюють свою комерційну діяльність на відповідній адміністративно-територіальній одиниці. Так, рішеннями Київської міської ради було запроваджено ряд пільг, що спрямовані на: звільнення від сплати оренди комунального майна такими суб'єктами, часткове звільнення від сплати за паркування, звільнення від земельного податку та орендної плати за землю тими суб'єктами (із закріпленим Рішенням Київської ради переліком), що використовують земельні ділянки для розміщення своїх приміщень, які використовуються для потреб національного спротиву, охорони, забезпечення громадського порядку, забезпечення продовольчої безпеки. Матеріали цього дослідження можуть бути корисними під час вивчення дисциплін «Господарське право», «Муниципальне право», «Адміністративне право»

Ключові слова: війна, органи місцевого самоврядування, податки, пільги, компенсація, бізнес
