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LEGISLATIVE SUPPORT OF INNOVATION ACTIVITY IN UKRAINE: PROBLEMS AND WAYS TO OVERCOME THEM

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ЗАКОНОДАВЧЕ ЗАБЕЗПЕЧЕННЯ ІННОВАЦІЙНОЇ ДІЯЛЬНОСТІ В УКРАЇНІ: ПРОБЛЕМИ ТА ШЛЯХИ ЇХ ПОДОЛАННЯ

The article presents a retrospective analysis of Ukrainian legislation in the scientific and technical and innovation sphere. The main problems of the national legislation regulating innovation activity are defined, namely: non-compliance with the legislative provisions; non-systematic nature of legislation; lack of mechanisms for implementing the priorities of scientific and technical and innovation activities; lack of integrated application of mechanisms of state influence (financial, credit, tax, etc.) for the achievement of certain priorities; suspension and cancellation of mechanisms for supporting scientific and technical activities, in particular, the underdeveloped mechanisms for developments prepared for commercialization; underdevelopment of innovation infrastructure (research universities, technological parks, scientific parks, clusters, high-tech innovative enterprises, innovative business incubators, venture funds); not formed motivational mechanism for transition of the real sector of the economy to the innovative way of development. The shortcomings of the current legislation on innovation activity are determined in accordance with international approaches that do not even correspond to the definition of the concepts "innovation" and "innovation activity" and there is no definition of the term "start-up". Also, the national legislation contains no definition of elements of innovation infrastructure according to the international approach: innovation park, incubator and accelerator, cluster, cluster initiative, cluster organization, regional innovation ecosystem, legislative provision of smart specialization approach. The main directions of overcoming the problems connected with the regulatory action of

the national legislation in the innovation sphere, in particular, elimination of its shortcomings in accordance with the international approach and the development and effective implementation of the Strategy of Innovation Development of Ukraine, are substantiated.

У статті здійснено ретроспективний аналіз законодавства України у науково-технічній та інноваційній сфері. Визначено основні проблеми національного законодавства, що регулює інноваційну діяльність, а саме: невиконання положень законодавства; несистемність законодавства; відсутність механізмів виконання пріоритетів науково-технічної та інноваційної діяльності; відсутність комплексного застосування механізмів державного впливу (фінансових, кредитних, податкових тощо) для досягнення тих чи інших пріоритетів; призупинення та відміна механізмів підтримки науково-технічної діяльності, зокрема нерозвиненість механізмів створення розробок, підготовлених до комерціалізації; нерозвиненість інноваційної інфраструктури (дослідницьких університетів, технопарків, наукових парків, кластерів, високотехнологічних інноваційних підприємств, інноваційних бізнес-інкубаторів, венчурних фондів); несформованість мотиваційного механізму до переходу реального сектору економіки на інноваційний шлях розвитку. Визначено недоліки чинного законодавства про інноваційну діяльність згідно з міжнародними підходами, яким не відповідає, навіть, визначення понять “інновація” й “інноваційна діяльність” та відсутнє визначення поняття “стартап”. Також у вітчизняному законодавстві відсутнє визначення елементів інноваційної інфраструктури за міжнародним підходом: інноваційний парк, інкубатор та акселератор, кластер, кластерна ініціатива, кластерна організація, регіональна інноваційна екосистема, законодавче забезпечення підходу смарт спеціалізації. Обґрунтовано основні напрями подолання проблем, пов’язаних з регуляторною дією національного законодавства в інноваційній сфері, зокрема усунення його недоліків згідно з міжнародним підходом та розробки і ефективної реалізації Стратегії інноваційного розвитку України.

Keywords: *innovation; innovation activity; legislation; national innovation system; innovation sphere; innovation infrastructure.*

Ключові слова: *інновації; інноваційна діяльність; законодавство; національна інноваційна система; інноваційна сфера; інноваційна інфраструктура.*

Target setting. Today, the current legislation of Ukraine lays down the legal framework for innovation activity, which provides ample opportunities for achieving certain positive results. At the same time, there are still many controversies and gaps in legislation that hinder the introduction and proper functioning of the model of innovative development of the country's economy. Therefore, the study of the problems of legislative provision of innovation activities in Ukraine and the substantiation of ways to overcome them remain relevant.

Actual scientific researches and issues analysis. Many domestic scientists, in particular V. Heyets, A. Dehtiar, Y. Zhovnirchuk, A. Kovach, Z. Kucheriava, O. Kryukov and others, paid attention to problems related to the regulatory action of the national legislation in the innovation sphere of Ukraine. Despite the fact that in the writings of scholars the relevant emphasis has been made on the improvement of legislative acts governing innovation processes, this issue still needs a systemic analysis. Thus, the shortcomings of the current legislation on innovation activity should be identified in accordance with the international approach, and the issue of eliminating the reasons for non-compliance with legislation in the field of science and innovations in Ukraine is quite relevant.

The research objective. The purpose of the work is to formulate proposals on the evening-out of the reasons for non-compliance of legislation in the field of science and innovations in Ukraine, the difficulties of its development and adoption.

To achieve the objective, the following tasks must be performed:

- making a retrospective analysis of the legislation of Ukraine in the scientific and technical and innovation sphere;
- identification of the main problems of the national legislation governing innovation activities;
- identification of the shortcomings of the current legislation on innovation activity in accordance with the international approach;
- substantiation of the main directions of overcoming the problems related to the regulatory action of the

national legislation in the innovation sphere.

The statement of basic results and their substantiation. The current regulatory framework (laws, decrees of the President, by-laws in the form of Government resolutions, orders of central executive authorities, etc.) related to the scientific and technical and innovation activity amounts to about 200 documents [1].

Three stages of development of the Ukrainian legislation in the scientific and technical and innovation sphere can be distinguished (Table 1).

Table 1.
Stages of Development of the Ukrainian Legislation in the Scientific and Technical and Innovative Sphere*

Stage	Period	Description
I	1991-1998	<ul style="list-style-type: none"> - adoption of the first framework law on scientific and technical and innovation activities (Law of Ukraine “On research and scientific and technical activities”) in 1991; - introduction of tax privileges for scientific and technical activities; - set-up of activity of the State Innovation Fund of Ukraine, the structure of which and the target financing independent of the general budget expenditures, provided a model of financial support for innovations new in the world at that time, which combined support for innovative projects at the regional, central and sectoral levels.
II	1999-2007	<ul style="list-style-type: none"> - cancellation of tax privileges; - liquidation of the State Innovation Fund; - avoiding the orientation on the programs of structural change in industry; - overwhelming attention to foreign loans; - adoption of the Law of Ukraine “On Innovation Activity” in 2002; - adoption of the Law of Ukraine “On State Regulation in the Sphere of Technology Transfer” (the norms of these laws, which related to the financial support for innovations and technology transfer were stopped by subsequent acts) in 2006.
III	2008 – present time	<ul style="list-style-type: none"> - adoption of a number of concepts and programs related to the development of science and innovation, at the same time: - the decisions taken are not effected in the implementation of financial, credit, tax, customs mechanisms for the development of innovation activities; - draft documents on financing, granting of tax privileges and crediting of innovations are not approved by financial authorities; - the scientific and technical and innovation spheres are not considered to be important at the level of executive authorities.

*Source: [2]

Currently, the development of innovation activity is regulated by the following laws of Ukraine: “On Special Regime of Investment and Innovation Activity of Technological Parks” in 1999, “On Innovation Activity” in 2002, “On National Integrated Program for Development of High Knowledge Intensive Technologies” in 2004, “On State Regulation in the Field of Technology Transfer” in 2004, “On Science Park “Kyivska Politechnika”, 2006, “On Science Parks” in 2009, “On Priority Directions of Innovation Activity in Ukraine” in 2011. Indirectly, the general conditions for the implementation of innovation activities are also determined by the laws of Ukraine “On Research and Scientific and Technical Information” in 1993, “On Research and Scientific and Technical Expertise” in 1995, “On Priority Directions of Science and Technology Development” in 2001, “On Higher Education” in 2014, “On Research and Scientific and Technical Activity” in 2015.

For the implementation of these laws and for the development of innovation activity at the level of executive power, the Cabinet of Ministers of Ukraine adopted the laws and regulations as follows: Regulation “On Approval of the Concept of the State Target Economic Program “Creating Innovation Infrastructure in Ukraine for 2008-2012”, 2007, Regulation “On Approval of the State Target Economic Program “Creation of Innovation Infrastructure in Ukraine for 2009-2013” in 2008, Regulation “On Approval of the Concept of Development of the National Innovation System” in 2009, Regulation “On Approval of the Concept of Reforming State Policy in the Innovation Sphere” in 2012, Regulation “On Approval of the Action Plan for Implementation of the Concept of Reforming the State Policy in the Innovation Sphere for the Period until 2014” in 2013, Regulation “On Approval of the Action Plan for Implementation of the Concept “Reforming the State Policy in the Innovation Sphere for 2015-2019” in 2015, Resolution “Some Issues of Defining Medium-Term Priority Directions of Innovation Activity at the National Level for 2017-2021” in 2016, Resolution “Some Issues of Defining Medium-Term Priority Directions of Innovation Activity at Industry Level for 2017-2021” in 2017.

The Verkhovna Rada of Ukraine, in addition to the adoption of laws, joined the support of innovation activities by adopting the resolutions “On the Concept of Scientific and Technological and Innovative Development of Ukraine” in 1999 and “On Compliance with Legislation on the Development of Scientific and Technical Capacity and Innovation Activity in Ukraine” in 2004. In addition, four parliamentary hearings were held directly concerning the innovation

activity of Ukraine: “The National Innovation System of Ukraine: Problems of Formation and Implementation”, 2007, “Strategy of the Innovation Development of Ukraine for 2010-2020 in the Context of Globalization Challenges” in 2010, “On the Status and Legislative Provision of the Development of Science and the Scientific and Technical Sphere of the State” in 2015, “National Innovation System: Status and Legislative Provision of Development” in 2018.

According to the latter, the main problems related to the regulatory action of the national legislation in the innovation sphere of Ukraine and the development of the national innovation system, include:

- low level of innovation and executive culture, failure to enforce laws and violation of legislative requirements;
- lack of long-term programs for the development of national economy based on innovations;
- lack of coordinated activity of public authorities aimed at the country's innovative development;
- non-fulfillment mechanisms of implementation of priorities of innovation activity and priorities of science and technology development specified by the laws;
- lack of integrated application of mechanisms of state influence (financial, credit, tax, etc.) for achieving innovative priorities;
- inconsistency of legislation in the field of intellectual property with international legal norms;
- underdevelopment of innovation infrastructure (research universities, technological parks, scientific parks, clusters, high-tech innovative enterprises, innovative business incubators, venture funds);
- lack of effective mechanisms for commercialization of the results of completed scientific and technical developments, which leads to the loss of state budget revenues annually;
- low level of innovation activity, in particular small and medium innovation entrepreneurship;
- lack of ready technological solutions for their implementation by business;
- underdevelopment of mechanisms for developments prepared for commercialization;
- lack of mechanisms for promoting cooperation between universities and research institutes with small and large enterprises;
- lack of a motivational mechanism for transition of the real sector of the economy to the innovative way of development [3].

That is, in spite of a considerable package of laws and regulations, Ukrainian legislation on innovation activity has many shortcomings, the most important of which is unsystematic character, which is the result of the lack of a unified approach of the state to the development of innovations. Laws are not aligned; strategic programs of different levels do not complement each other. This can be corrected through the creation of a joint governmental document that defines the goals and instruments for supporting innovation development as an element of Ukraine's economic development.

One of the main principles of the systematization of legislation on innovation activity, according to which laws and regulations must provide consistency of norms, integrity of the subject of regulatory regulation is violated [4].

Unsystematic character involves a low level of compliance with the law. Inconsistency, desuetude and a large number of gaps create objective difficulties with its understanding not only for inventors and entrepreneurs, but also for government officers.

The set of laws and regulations is focused on the policy of supporting an innovation proposal through the promotion of commercialization of scientific developments and does not cover the whole chain of added value for creating innovative products.

The regulatory framework of innovation activity is rather controversial; moreover, it meets incompletely the principles of knowledge-based economics. Currently, there is no sufficiently effective legal framework for the protection of intellectual property rights, the functioning of venture capital as a market institution; procedures for creation of individual subjects of innovation activity are unjustified complicated. In addition, the criteria for project innovation and the distinction between investment and innovation projects are not legally defined. Issues of objective expertise and competitive bases of budget financing of scientific, scientific and technical, innovative programs and projects are insufficiently standardized [5].

The basic shortcomings of the current legislation on innovation activity according to the international approach are as follows:

- definition of concepts “innovation” and “innovation activity” does not correspond to modern international approaches;
- system for collecting and analyzing information on innovations is not agreed;
- powers on state support of innovations between central executive authorities are not distributed;
- there is no definition of concept “startup”, no support for startups and incentives for their activities are provided for;
- there is no definition of the elements of innovation infrastructure according to the international approach: innovation park, incubator and accelerator, cluster, cluster initiative, cluster organization, regional innovation ecosystem, legislative provision of smart specialization approach;
- there is a need to improve approaches to supporting innovation infrastructure.

Also, the shortcomings of legislation that restrain the development of innovation in Ukraine should include: the lack of an effective method for determining the amount of damage caused by violation of rights to industrial property objects; unregulated institution of joint activity between scientific establishments and institutions of higher education and private enterprises as to implementation of research and innovation projects; lack of opportunities for state-owned

scientific establishments and institutions of higher education to receive profit from the activities of enterprises created by them.

The problem in legislative provision of innovation activity in Ukraine consists in its limitation, which is the result of ineffective state influence, in particular tax privileges, antimonopoly, patent and licensing and market-oriented regulation of technological upgrading of production [6].

The main reason for non-compliance with legislation in the sphere of science and innovation in Ukraine, the complexity of its development and approval, are connected with the fact that laws and regulations are adopted in the absence of Ukraine's innovation-oriented economic strategy. The experience of EU-States shows that legislative provision must have an influence and be an instrument of economic policy implementation. Thus, the main task is to develop a long-term program of economic development of the country based on the use of the latest advances in science and technology.

The long-term program of economic development of the country should determine the indicators of changes in the state of the economy, restructuring, development of key industries, including innovative indicators and tools, mechanisms for ensuring such changes.

The program should be accompanied by a list of changes to legislative acts, which should be approved for the realization of the goals determined by the program. In addition, the peculiarities of development of the scientific and technical and innovation spheres can be identified in a separate Strategy of Ukraine's Innovation Development and comprehensive plans adopted to implement such a strategy.

The participants of the parliamentary hearings on the subject "National Innovation System: State and Legislative Provision of Development" recommended to the Cabinet of Ministers of Ukraine to develop, in accordance with the Resolution of the Verkhovna Rada of Ukraine No. 182-VIII dated February 11, 2015 [7] the Strategy of Ukraine's Innovation Development, which, inter alia, will determine the structure of the National Innovation System, ensuring the coherence and complementarity of Ukraine's industrial, scientific and technical and innovation policy and provide for the application of modern tools for supporting the formation of national and regional innovation ecosystems of Ukraine [3].

Conclusions. The main problems related to the regulatory action of legislation in the sphere of scientific and technical and innovation development in Ukraine include: non-compliance with the provisions of the legislation; absence of long-term programs for the development of a national economy based on innovations, for the implementation of which the adoption of certain acts in the scientific and technical sphere is required; unsystematic character of legislation; lack of mechanisms for implementing the priorities of scientific and technical and innovation activities; orientation of the procedure of projects selection, expert examination and their financing to executive bodies, which are characterized by complicated long-term decision-making procedure and lack of effective anti-corruption mechanisms; lack of integrated application of mechanisms of state influence (financial, credit, tax, etc.) for the achievement of certain priorities; suspension and cancellation of mechanisms for supporting scientific and technical activities; absence of coordinated activity of executive bodies aimed at the country's innovative development.

The overcoming of problems related to the regulatory action of national legislation in the innovation sphere is possible subject to elimination of the deficiencies in accordance with the international approach and to the development and effective implementation of the Strategy of Ukraine's Innovation Development.

In our opinion, the definition of the priority tasks of the Strategy in the sphere of scientific and technical and innovation activities should be:

- connected with solving economic tasks of the respective economic development strategy of the state (providing energy efficiency, energy supply, transition to alternative energy sources, restructuring of production with low added value, restoration and strengthening of export trends of branches of machine, aviation, space engineering, shipbuilding, production of military equipment, etc.);
- aimed at solving urgent issues regarding the creation and development of a system of financing scientific, scientific and technical, innovation activity and innovation infrastructure;
- focused on supporting the scientific and technical and innovation activities of scientific collectives and enterprises engaged in the development of the fifth and sixth technological waves.

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