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## VENTURE CAPITAL INVESTMENTS IN THE INNOVATIONS DEVELOPED BY UNIVERSITIES

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### Summary

The article examines the need to improve the legal regulation of the use of venture capital in Ukraine for the financing of innovation in higher education. Also it is analyzed the procedure of interaction of the legal entities created at the universities and venture capital funds in the field of development of innovation for industrial-defense complex of Ukraine, the legal form of such enterprise, the remuneration for the team of developers, the state's share in this company.

**Key words:** venture capital fund, higher education, innovation, defense complex of Ukraine, commercialization of innovations.

### Анотація

В статті аналізується необхідність совершенствования правового регулювання використання венчурного капіталу в Україні для фінансування інноваційних розробок вищих навчальних закладів. Аналізується порядок взаємодії створених при вищих навчальних закладах юридических осіб і венчурних інвестиційних фондів в сфері розробок інновацій для промислово-оборонного комплексу України, організаційно-правової форми такого підприємства, порядку вознаграждения команды разработчиков, доли государства в таком предприятии.

**Ключевые слова:** венчурный фонд, высшие учебные заведения, инновации, оборонный комплекс Украины, коммерциализация инноваций.

### Formulation of the problem.

The interaction of scientific and innovative capacity of higher education institutions (hereinafter – universities) and the business environment is common practice in many developed national innovation systems [7].

In particular, the interaction of universities with business organizations in terms of creation of innovation infrastructure at universities and funding the commercialization of university startups brings significant fruits for the startup projects developed by students and teaching staff with financial support from relevant private investors and venture capital funds.

That's why the research on legal regulation of the relationships between universities, teaching staff, students, state and investors have to be considered as an **actual theme for research**.

The state of research on the topic. Legal aspects of venture investment, namely some issues of legal regulation of economic relations on investment, public and private innovation support entities can be found in the works of: Y. Atamanova, M. Vasilenko, D. Vysotskyi, A. Vinnyk, O. Dyuhovanets, O. Kibenko, V. Kossak, D. Zyatynoyi, T. Mason, A. Onufrienko,

A. Podtserkovnyi, V. Duel, O. Simson and some others.

**The aim of the study.** However, these studies need to complement by the establishment of the legal regime of interaction between higher education institutions and state/private investment funds, including venture capital investment funds. In particular, a mechanism of trilateral interaction between universities – investors – an innovative company (startups created by the students and teaching staff).

**Presenting main material.** Higher education institutions are an important link in the process of building a national innovation system of any country. Given the fact that the national innovation system of Ukraine is in the making, to create unambiguous legal conditions to enable the effective and efficient functioning of higher education institutions (hereinafter – the University) as part of the innovation system.

Private investors can support startup projects both within any type of interaction between university – business (not targeted financial support), and through targeted investments in startups that work in areas where the private investors have their interest.



Moreover, in the US there is a practice of target sponsoring by the investor of developing by the universities of the necessary innovative technologies/solutions/product for investor [4].

Ukraine, like any state, in today's global economy is definitely interested in the development of high-tech manufacturing and high-tech growth of the potential of the economy. So it is important to implement the legal measures to ensure the development of cooperation between universities and the business sector, private investors, specialized investment funds, and so on.

Today in this direction are noticeable improvements already.

In particular, after the adoption of the new Law of Ukraine "On Higher Education" (hereinafter – the Law "On education"), universities are able to be founders of legal entities, the main purpose of which is the commercialization of the innovations that have been developed by such universities (item 1 Article 68 of the Act).

Such provisions of the Law "On education" make contribution to the development of a clear and effective mechanism of the use by the universities of their scientific and creativity potential aimed at meeting the priorities of innovative development of the country and the needs of small, medium and large businesses in field of creating of innovative technologies.

In modern conditions of dynamic development of information technology, significant importance is the timely and effective commercialization of innovations, including developed at universities, in order to obtain the practical benefits of development of such innovation.

Given the significant intellectual and inventive potential of universities, there is no doubt the fact that employees of institutions involving teaching staff, students and other individuals can accumulate a large amount of necessary knowledge and skills needed for creating innovation. However, without financing of creating of innovation, the provisions of the Law "On education" on establishment of legal entities for commercialize innovation, stay only declarative.

Developed innovations, intellectual property rights on which are not registered properly, and which finds no

practical realization, does not benefit the developer of this innovation nor the state economy. Such innovation does not fulfil its own innovative features to ensure its commercial implementation.

As considered the "father" of concept of innovation J. Schumpeter: "Innovation – is the commercial introduction of new products or new means of production" [9, p. 100]. It can be concluded the need to providing integrated legal mechanism that provides a way to develop innovations or just innovative ideas, up to commercial implementation of innovations. The said legal mechanism should effectively regulate the feasibility of qualitative transition innovative idea to the stage of innovative product.

One of the ways to implement innovation developed at university is their use in businesses based in such university independently and/or in partnership with other legal entities.

It should be noted that the Law "On education" have no prohibitions for universities to attract investors to the established legal entities, if their own funds for the implementation of innovations in product innovation is not enough. Also, there is no prohibition for universities to be an investor by investing the innovation developed by the university into the existing legal entity, created by outsiders.

Enterprises created at universities will be in an incredible need for additional funding at the current stage of Ukrainian economy, when the amount of funds in the state budget and in the Ukrainian economy itself has become much smaller [6]. The need of such entities of receiving the third-party sources of funding can be argued in view of the novelty and lack of experience wide operation of such a mechanism within the Ukraine – and, consequently, today's lack as in universities so in the budgets of various levels of the dedicated funds for commercialization of innovations created by the universities.

Fact of the need of significant funding to establish the effective functioning of the national innovation system involving universities can be also confirmed by the European experience of formation of national innovation systems in Sweden, Poland, Portugal and the UK [8, p. 8–58].

Therefore, it is reasonable to attract the alternative (additional to the budget)

sources of financing for development and commercialization of innovations, including venture capital, which is considered one of the most effective ways to finance innovation in foreign countries and ensuring development of the national innovation system and the economy as a whole. In particular, venture funds is widely used abroad to commercialize innovations. For example in the USA [5], Germany [1] and France [3].

Efficiency of venture capital in the development of innovative economy is also recognized by the Ukrainian government. In particular, can be mentioned the State program for enhance the economic development for 2013–2014 of February 27, 2013 № 187, the concept of "State target economic development program of investment activity for 2011–2015" of September 29, 2010 № 1 900, the Concept of reforming the state policy in the sphere of innovations of September 10, 2012 № 691-p.

Despite the fact that the legal acts, mentioned above, contain a reference to the use of venture capital to create innovation, the actual result of using venture capital investments in Ukraine is miserable. Last but not least, venture funds, which are made according to the Law of Ukraine on "On joint investment institutions" do not make the innovative investment because of the lack of established by the state benefits for recipients of venture capital engaged in innovative activities.

In today's state of Ukrainian economy it does not seem appropriate to talk about benefits for all enterprises in Ukraine, as this hypothesis is obviously detached from economic reality, and reorientation of the priorities of state funding for the defense sector.

However, innovation in the defense sector is needed in our country as never before. So simplify participation procedures technical parks, faculty and students of universities and other innovative structures to create innovative products of defense is appropriate step.

Military orders during the Second World War from June 1940 to September 1944 reached 175 billion. USD, which was a powerful stimulus the US economy. It is the only country in the world whose economy emerged from the war much stronger (national income increased 2 times). This also contributed to public investment industries. Thus, from 25.8



billion USD, which were invested during the war in the restructuring of US industry, the 17.2 billion USD were accounted for by public investment [7].

Key issues arising in voicing proposals to attract venture capital, universities and innovation infrastructure to developing the innovation in the field of defense are: organizational and legal form of the company, the procedure for distribution of property rights therein team who developed the innovation and financing such developments.

Regarding the legal form, it is possible to use any of the legally stipulated organizational forms of business entities. However, given the associated regulation (such as the Law "On peculiarities of privatization of enterprises belonging to the Ministry of Defense of Ukraine" dated 18.05.2000 number 1741-III), seems the most appropriate form of joint-stock company in which the state owns at least 51%.

Regarding the ownership: if team university claims that can implement a defense project, it should provide for examination to the joint committee of the Ministry of Defense and Ministry of Education the necessary documents, which should include at least: a written justification of the technical and economic components, a tentative list of necessary equipment, time and funding for the project, the practical value of the project and scope for its implementation, requiring no additional costs. If the results of the examination of the project in the joint committee of the Ministry of Defense and Ministry of Education are found to be realized, the joint stock company with 90% of state ownership should be created. The remaining 10% of corporate rights in a joint stock company is owned by a team of university that created the project.

The next stage of "life" of such created legal person is receiving funding from venture investors who invests for enforcement of the proposed innovation project. Venture investment is carried out for the respective share in such company.

As mentioned at the outset, scientific and innovative potential of universities is no doubt, which is proved by the successful implementation of development programs and commercialization of innovations by the foreign academic institutions.

As for the other necessary component—financing, the obvious solution is to attract

venture capital investment funds that actually emerged as funds for financing the commercialization of innovations, developed during the Second World War [2].

However, it should be also mentioned that the necessary guarantees for venture capital investors to make them interested to invest in the development of innovative projects in the field of defense.

First of all, it should be introduced the financial incentives to those companies that implement innovative defense projects. For example, by allowing the duty-free importation from abroad of equipment for which there are no equivalents in Ukraine. Likewise possible to resolve the issue of the employed professionals who take a direct part in the implementation of these projects. In particular, by establishing a simplified procedure for employment of foreigners in the Ukrainian company. It is recognized that the success of the United States associated in particular with the creation of exceptionally favourable conditions for the immigration of science, technology, business and cultural environment.

The creation of conditions in which not only foreigners will be comfortable and profitable to work in Ukraine, but our employers also will be in good conditions to employ foreigners and not take the spending of at least half of the total value the foreign specialist provides to the company. This is tangible step towards the creation of a national innovation system.

The next necessary step—to provide the mechanism of payment to the universities teams that developed the technology which later found its commercial implementation. The appropriate payment method can be used as offered above. In particular, the mechanism whereby the professors and students of the university receive their interest in the share capital of the company, which is created for the implementation of the project. Such team can then sell their shares or keep them and receive dividends from the activities of the company.

Regarding the intellectual property rights that arise in the course of an innovative project oriented defense, they must belong to the state.

Conclusion. Legal regulation of the academic innovation potential of the universities require further improvement,

especially in view of the challenges facing today before our country.

In particular, to ensure innovation commercialization of innovations created by the universities, first of all it must be determined the sources of financing of the commercialization of such developments, profit sharing between the investor, the university development team and the government (if the state is involved in the project).

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## ИСТОРИКО-ПРАВОВЫЕ ОСНОВЫ УЧРЕЖДЕНИЯ И ФУНКЦИОНИРОВАНИЯ ОРГАНИЗАЦИИ ЭКОНОМИЧЕСКОГО СОТРУДНИЧЕСТВА И РАЗВИТИЯ

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### Summary

The article is devoted to the main preconditions for the establishment and functioning of the Organization for Economic Cooperation and Development. The author makes a historical analysis of the formation of the Organization for Economic Co-operation and Development, reveals the principles of its functioning, it explores the main stages of evolution, and identify changes to its role at the present stage of development.

**Key words:** international organizations, international economic organizations, Organization for Economic Cooperation and Development, phase of the Organization for Economic Cooperation and Development.

### Аннотация

Статья посвящена анализу главных предпосылок учреждения и функционирования Организации экономического сотрудничества и развития. Автор проводит исторический анализ становления Организации экономического сотрудничества и развития, раскрывает принципы ее функционирования, исследует основные этапы эволюции, а также выявляет изменения ее роли на современном этапе развития.

**Ключевые слова:** международные организации, международные экономические организации, Организация экономического сотрудничества и развития, этапы функционирования Организации экономического сотрудничества и развития.

**Постановка проблемы.** Международные организации прочно вошли в систему международных отношений в качестве важного её элемента, без которого само функционирование системы практически невозможно. Современный этап развития международных отношений характеризуется процессами активного сотрудничества по вопросам противодействия общим глобальным угрозам современности – угрозам миру и безопасности человечества, международной преступности, нарушения прав человека, коррупции, экологических кризисов, экономической стабильности и др. Указанные опасные явления вызывают значительные негативные политические, социальные, правовые последствия для каждого отдельного государства и международного сообщества в целом. Поэтому поиск новых механизмов, направленных на преодоление их деструктивного влияния, является чрезвычайно важным процессом. В связи с этим возрастает роль универсальных международных организаций, среди которых важное место занимает Организация экономического сотрудничества и развития (Organisation for

Economic Cooperation and Development, Organisation de Coopération et de Développement Economiques) (далее – ОЭСР).

ОЭСР входит в тройку ведущих мировых экономических учреждений, наряду с Международным Валютным Фондом и Всемирным банком. На современном этапе сотрудничество с этой международной организацией имеет чрезвычайно большое значение, учитывая место ОЭСР в международных отношениях и правовые возможности, которые открываются перед государствами-членами организации.

**Актуальность темы.** На современном этапе особую актуальность представляют международные экономические организации, которые наряду с государствами осуществляют значительное влияние на развитие международных экономических отношений, определяют их направленность, привлекая к упорядоченному процессу большое количество стран. Одной из таких является ОЭСР. Актуальность исследования подтверждается также степенью нераскрытости темы – в настоящее время в украинской доктрине международного права имеются лишь