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LEGAL REGULATION OF INVESTMENT AND INNOVATION IN THE TOURISM SPHERE

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ABSTRACT

The realities of today's life of Ukrainian society, the pro-European course of development and activity chosen by the nation, the favourable geopolitical position of Ukraine, etc. along with other strategically important circumstances in the development of state-legal and social institutions of our state and nation naturally led to the emergence of the need to improve analytical approaches to the development of investment and innovative support for the tourism sphere of life of Ukrainian society. The research aims to analyse the features of the legal content of the categories that are within the framework of research on the subject of work and the legal forms that social relations acquire, which in this regard develop in society. The aim of the work is also to try to form our own legal view on the current state and prospects for the development of legal support for the relevant issue. The leading research methods are theoretical – analysis-synthesis, induction-deduction, abstraction. The scope of issues raised in this work concerns a fairly complex framework of sectoral and legal regulation: administrative, international, civil, economic, etc.

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INTRODUCTION

In modern conditions of social development, the thesis that for the transition of any sphere of social systems of a particular country to the investment and innovative path of development, perfect regulatory support for relevant issues does not raise any objections (Evan and Holý, 2021). There is no doubt that the tourism sphere is also no exception to this rule. Moreover, issues related to the field of tourism are most closely related to the development of society, improving the consciousness and culture of the population, improving the sovereign and democratic statehood, and market economy and social orientation of our state (Kokkinou *et al.*, 2018). Incentives in the field of tourism manifest themselves in the direction of strengthening the dynamism and

diversity of public relations of various branches of public life, they cause the activation of reform processes at the legislative and state level, they cause an increase in the level of consciousness and culture of the nation as a whole and industry specialists in particular, including in the field of legal doctrine and regulatory branch of public life regulation (National Innovation System..., 2018).

In the context of the research framework for the content of this work, we will immediately emphasize that the field of travel has a serious close relationship with the sphere of investment and innovation processes (Xu *et al.*, 2020). Taking into account the above, the issues of searching and analysing the current state of general laws and prospects for the development of legal regulation of investment and innovation in the tourism sphere are

quite interesting and promising, because this will create sufficient grounds for solving several existing problems and difficulties of the industry, and will contribute to the further development of the studied spheres of social existence as a whole.

In turn, the formal goals of the research on the content of this work are the creation and development of a complex of information material necessary and useful for clarifying existing problems of the industry, identifying current discussion and controversial issues, creating bases to activate the necessary rule-making processes in a given direction and raising the level of culture and consciousness of various industry specialists in understanding the topic under study, etc. One way or another, the main task within the subject characteristics of this work is to identify and fix existing issues and search for and further present the proposed ways, methods, means, etc. to solve them. As for more specific tasks, these are, in particular, the development of one's own and other (users, readers, other interested parties) ability to think abstractly; the development of skills to apply the acquired knowledge in practical situations; expanding the scope of knowledge and understanding of the subject area of research, developing the ability of society to exercise its rights and freedoms as members of society, developing the regulatory framework for regulation, etc.

Considerable attention of lawyers is devoted to the issues studied in the framework of this research work (Evreeva, 2018). However, the relevant professional views and opinions on this issue are usually subjective in nature, because they are associated with a purposeful justification of a particular approach, which indicates the lack of the necessary complexity of the issues under consideration. This increases the relevance of this work. From such a legal point of view, the presence of some different planes in the relevant issues expands existing ones and creates new opportunities for researching the chosen direction of thought. It should also be noted that the research conducted in this work is based on the application of acquired skills of abstract thinking, skills to quickly and consistently determine the facts appropriate for legal analysis, skills and abilities to form and justify legal positions of a complex nature, skills to analyse social processes in the context of case analysis with relevant components, skills to organize the systematic accumulation of integrated and complex material from different sources, skills to apply in

research and comparisons various information and other resources and sources, in the context of analysing the general problem, determine the boundaries of knowledge and understanding of the main modern legal and other doctrines.

At the same time, it is appropriate to make a separate reservation that for a fundamental master of the essence of the categories and concepts considered in this work, related problems and difficulties in the practice of applying legal regulation in the relevant sphere of public reality, it is necessary to apply a broader toolkit of research methodology and approaches, considering the scale of the research topic conducted in this work. Research on the topic was conducted considering the specialization of various spheres of human existence with a focus on the directions of Ukraine's transition to a market economy. The research was also conducted in such a way that its results were as fully understandable as possible, in particular, considering the interests and knowledge of the circle of consumers of information from the relevant research study.

One way or another, the choice of research tools took place with a focus on the objective grounds and prerequisites for conducting the study itself and its connection with a number of socio-economic, state-management, state-creating, and normative-creative processes of forming an organized structure of social existence of Ukrainian society, etc., taking place on the territory of Ukraine. At the same time, it should be mentioned that accordingly, the results of the study relate to the plane of issues and tasks related to ensuring the state's social orientation of socio-economic progress of Ukrainian statehood on the legal basis of state construction and the development of modern types of management, the processes of reformation of national legislation of Ukraine and some other circumstances. The selected areas of research are based on the development of information material sufficient to clarify the existing problems of the industry, identify existing discussion and controversial issues, create the basis for activating the necessary rule-making processes in a given direction of research and increase the level of diverse industry specialists in understanding the topic under study, as well as skills in applying regulatory legal acts in the relevant field.

Concepts, types, and forms of investment, innovation, and innovation activities

Legal norms on investment and innovation activities are contained in many acts of various branches of Ukrainian legislation, given that there are sufficient grounds to speak about their complex nature. First of all, we note that the issue of investment, as well as the issue of innovation development, has always been and remains particularly relevant. Socio-economic, political, legal, and other systems of the state of Ukraine are also no exception to this rule, given the current rather complicated political and economic situation and, accordingly, the need to solve a sufficient number of problems of a socio-political, economic, and other nature in Ukraine (Dei *et al.*, 2021b). This is related to the ability of investment and innovation to ensure the path of financial-economic stability of the population and the state, as well as their joint socio-economic development in general.

In this regard, we state that in modern conditions of social development, the issue of strengthening our state's potential attractiveness in terms of investment and innovative opportunities for the development of various spheres of social existence is becoming particularly relevant. Moreover, we also note that a priori, state institutions recognize the relevant trends, since the norms of modern national legislation provide in their content various mechanisms and means of investment and innovation incentives in the form of various benefits, preferences, etc., that is, the state at a sufficient level recognizes and supports investment and innovation development policies as progressive and necessary (Dei *et al.*, 2021a).

Proper understanding of the issues under consideration requires a thorough clarification of the essence of the concept of "investment" and "innovation", which are key for the relevant areas of social activity. Thus, in the legal literature, you can find definitions of the corresponding concepts that differ in content and scope. This indicates the complexity and versatility of the corresponding categories and concepts, phenomena, and processes associated with them. Let us take a closer look at this issue. So, in some sources of information, it is noted that investments should be understood as an economic-legal category, which means a long-term investment of capital or other funds in objects of economic activity to ensure their further increase. In this case, their increase is associated with making a profit or achieving a social effect (Smolin, 2010). Along with this, it is possible to find a definition, according to which investment is

primarily productive expenses, that is, expenses attracted and directed to the reproduction of life, material, and spiritual goods, as necessary conditions for human life in society (Bogatyrev, 1992). It is also fair to recall the successful thesis that it is methodologically erroneous to try to "give the most correct" definition of investment, that is, one that exactly corresponds to the objective (economic) nature of this phenomenon. At the same time, it is interesting to note that the position of international investment law should be perceived, according to which there is no "correct" definition of investment, but such a definition is a reflection of the regulatory needs and priorities that exist in a particular state in a particular period of development. It is also noted that it is theoretically and practically justified to define investment as a two-aspect category that combines the understanding of investment as property values that make up the contribution of a subject to economic activity; actions (operations) of this subject that determine the method of making such a contribution (Poiedynok, 2013).

In particular, Article 1 of the Law of Ukraine No. 1560-XII "On investment activity" (Verkhovna Rada of Ukraine, 1991) provides that investments can be:

- funds, targeted bank deposits, units, shares, and other securities (except bills of exchange);
- movable and immovable property (buildings, structures, equipment, and other material values);
- intellectual property rights; a set of technical, technological, commercial and other knowledge, issued in the form of technical documentation, skills and production experience necessary for the organization of a particular type of production, but not patented ("know-how");
- rights to use land, water, resources, buildings, structures, equipment, as well as other property rights;
- other values.

Quite often in the legal and other literature, you can find various attempts and ways to classify investments into certain content groups according to various characteristics, which solves a number of theoretical and applied issues of investment and innovative support of public relations (Pecheritsa, 2019). One way or another, as a phenomenon of a procedural type, at its core, investment, in the understanding of both the implementation and attraction of investments in the form of various model projects, is provided by carrying

out investment activities. National legislation in the content of understanding this concept, such as the norm of Part 1 of Article 2 of the Law of Ukraine “On investment activity” (Verkhovna Rada of Ukraine, 1991), lays down the following – this is a set of practical actions of citizens, legal entities and the state to implement investments.

As a rule, the implementation of investment activities is reduced to an active process of activity, which conditionally involves several stages (Korniienko *et al.*, 2021). In this context, the construction of the investment process proposed in the legal literature, such as the following, is quite revealing: investment activity is quite complex in its content and includes a set of various actions called the investment cycle, which is understood as a set of measures from the moment of making a decision on investment to the final stage-achieving the return on investment and obtaining the planned result – profit or social effect. The investment cycle, as noted, consists of the following main stages:

- pre-investment phase, which includes making a decision on investment, determining the sources of investment, and approving and reviewing the investment project;
- the investment phase, which includes the investment of funds in the object of investment and the implementation of the necessary practical actions;
- the operational phase, which includes compensation by the investor for the funds spent, making a profit, or achieving a certain social effect (occurs as a result of the operation of the investment object) (Vinnyk, 2000).

We will also make a special mention of Article 2 of the Law of Ukraine “On investment activity” (Verkhovna Rada of Ukraine, 1991) it states that investment activity is provided by implementing investment projects and conducting operations with corporate rights and other types of property and intellectual values. The latter was mentioned above. We should make a separate mention of innovation. In this regard, first of all, we note that quite often lawyers rightly pay attention to the fact that in modern conditions of social development, it is no longer controversial that innovations serve as an integral and effective stimulating factor for the development of society, its various systems – economic, social, educational and scientific.

So, in this regard, it is fair to note that it is appropriate to think that thanks to scientific knowledge and technical

use of the acquired knowledge, not only the intellectual and mental development of humanity takes place, but also the socio-economic conditions of its existence change (Shemshuchenko, 2013). In the legal and other literature, you can find a variety of meaningful definitions of the concept of innovation. For example, innovations are newly created (applied) and/or improved competitive technologies, products, or services, as well as organizational and technical solutions of a production, administrative, commercial, or other nature that significantly improve the structure and quality of production and/or the social sphere. The glossary of the European Foundation for Education explains that innovation is a novelty introduced for the first time, but most innovations are associated with the transfer of existing approaches to new conditions by adapting them or making gradual changes to existing systems.

According to the content direction of this work, it is logical to directly recall the normative approach in the logical-meaningful content of the meaning of the concepts of innovation and innovation activity. Thus, Article 1 of the Law of Ukraine No. 40-IV “On innovation activity” (Verkhovna Rada of Ukraine, 2002) defines innovations as newly created (applied) and (or) improved competitive technologies, products or services, as well as organizational and technical solutions of a production, administrative, commercial or other nature that significantly improves the structure and quality of production and (or) the social sphere (Dei *et al.*, 2019b).

The mentioned provision of the Law of Ukraine “On innovation activity” (Verkhovna Rada of Ukraine, 2002) also defines innovation activity, in particular: innovation activity – activity aimed at using and commercializing the results of scientific research and development and determines the release of new competitive goods and services to the market. A separate mention of innovation activity contains the above-mentioned Law of Ukraine “On investment activity” (Verkhovna Rada of Ukraine, 1991), Article 3 of which establishes that innovation activity is a set of measures aimed at creating, implementing, distributing, and implementing innovations by the Law of Ukraine “On innovation activity” (Verkhovna Rada of Ukraine, 2002) in order to obtain commercial and/or social effect, which are carried out by implementing investments made in objects of innovation activity.

We should agree with H. V. Smolin (2010) that the essential properties of innovation are:

- scientific-technical novelty;
- production applicability;
- commercial implementation.

The objects of innovation activity in accordance with Article 4 of the Law of Ukraine "On innovation activity" are:

- innovative programs and projects;
- new knowledge and intellectual products;
- production equipment and processes;
- infrastructure of production and entrepreneurship;
- organizational-technical solutions of a production, administrative, commercial or other nature, significantly improving the structure and quality of production and (or) the social sphere;
- raw materials, means of their extraction and processing; marketable products; mechanisms of formation of the consumer market and sale of marketable products (Verkhovna Rada of Ukraine, 2002).

New knowledge as objects of investment

In fact, the sphere of tourism can act as a sphere within which quite often and, as a rule, new knowledge arises, the search and find of which is precisely the processes that find their course in the travel sphere. By an innovative product, the legislation understands the result of research and/or development that meets the requirements established by law. The legislation also defines the areas of innovation activity, namely:

- conducting scientific research and development aimed at creating intellectual property objects, scientific-technical products;
- development, production and distribution of fundamentally new types of equipment and technology;
- development and implementation of new resource-saving technologies designed to improve the social and environmental situation;
- technical re-equipment, reconstruction, expansion, construction of new enterprises, carried out for the first time as industrial development of the production of new products or the introduction of new technology.

It is also important to understand that the legislation directly defines the characteristics and criteria for

assigning a particular object to the concept of an innovative product. In particular, the law defines that an innovative product is a materialized result of the implementation of an innovative project and research and (or) development of a new technology (including information) or products with the production of an experimental sample or an experimental batch, if such meets the following requirements:

- it is the implementation of an intellectual property object (invention, utility model, industrial design, topography of an integrated circuit, selection achievement, etc.), for which the product manufacturer has state protection documents (patents, certificates) or licenses obtained from the owners of these intellectual property objects, or the implementation of discoveries. At the same time the intellectual property object used should be decisive for this product;
- product development increases the domestic scientific-technical and technological level;
- in Ukraine, this product is produced (will be produced) for the first time, or if not for the first time, then in comparison with other similar products presented on the market, it is competitive and has significantly higher technical and economic indicators.

The decision to qualify a product as innovative is made by the Central Executive Authority implementing state policy in the field of innovation, based on the results of an expert examination. It is interesting that the state encourages innovative development policies, because innovative projects can be provided with state support, but only if they are registered by state, which is carried out in accordance with the procedure established by the Cabinet of Ministers of Ukraine. Consequently, the State Register of innovative projects has been created and operates on a regulatory basis. One way or another, the construction of investment and innovation relations in society is mediated primarily by relevant contracts – investment contracts; for the performance of research, development and technological work; for the creation and transfer of scientific and technical products, etc (Romão, 2020).

In addition, regarding comparisons of this study and its results with other similar works, we note that the issues raised are rarely studied in the field of legal regulation of public relations. Accordingly, research on the issues raised within the strategic framework of law and legal knowledge is almost non-existent. However, they are found in the prism of the actual identification of issues of

everyday practice, as well as in the framework of research on issues raised in other areas and methodologies for solving relevant issues (in Sociology, Economics, Political Science, etc.), which cannot be applied as a single one, considering the legal orientation of the research conducted. Thus, the focus of this work is particularly evident in the prism of the initial stages of research on social issues and accordingly concerns the identification of certain problems and the search for ways to solve them for the first time. At the same time, this work is aimed at establishing a general framework for future research on this topic.

The main problems of investment in the tourism sector

Ukraine has significant potential in the development of tourism, but a low level of the image in the global investment market. In most rankings, the country ranks last in terms of investment attractiveness. Therefore, an important task of increasing investment in the tourism business is to increase investment attractiveness (Omarova *et al.*, 2021). Ukraine has created a legal framework in the field of investment regulation, in order to achieve a greater inflow of investment and increase the efficiency of their use. However, the need to harmonize documents and permits in various government agencies creates temporary and other barriers to the implementation of investor plans. The main reasons hindering foreign investment include: low levels of trust in the government, hostilities in the east, government interference in the private business sector, the shadow economy, corruption, political instability and taxation. However, the main reason is the lack of a strategy for the country's economic development.

The Government of Ukraine must clearly define the priorities of investment activities of the tourism industry, and for this purpose it is advisable to determine the tools and levers of state regulation that it will use. First of all, it is necessary to stimulate financial and credit levers, which will be aimed at creating a favorable credit environment; fiscal levers, which will provide the optimal amount of taxes for enterprises of the recreational and tourist complex (Tlesova *et al.*, 2020); socio-psychological levers that would form the image of Ukraine as a country conducive to recreation and tourism. Thus, investing in the tourism sector has many benefits for both the economy and the investor:

- source of foreign exchange earnings to the

national economy;

- replenishment of the revenue side of the budget by expanding the tax base;
- increase in consumer demand;
- creation of new jobs;
- expansion of production of goods and services, which increase as a result of effective demand of tourists;
- increasing incomes of the population working in the tourism sector;
- fast payback period.

In addition, the development of tourism has disadvantages, which are manifested in the fact that it:

- affects the growth of prices for local goods and services, land and other natural resources and real estate;
- promotes the outflow of money abroad through tourist imports;
- causes environmental and social problems;
- can damage the development of other industries, etc (Dei *et al.*, 2019a).

To solve these problems and to develop the tourism sector, it is necessary to stimulate demand for tourism products, which for the most part, although expensive, provide the country with high profits, increase employment and increase the country's competitiveness in the world market. In addition, it is necessary to improve the transport and hotel infrastructure of the country. Ukraine should expand its tourism services by conducting advertising campaigns through the media in both domestic and foreign markets. An integral part of the development of the tourism industry is cooperation with international organizations and maintaining relations with international investment tourism funds. Tourism is an investment-attractive type of economic activity that can take one of the leading places in the economy of Ukraine. Assessing the world experience in this field, we can say that Ukraine has enough opportunities for the development of tourism. Considering the issue related to the investment climate in the country, it is worth talking about the need to develop a proper and effective investment policy at the state level, which will be aimed at improving the conditions and factors influencing the dynamics of investment in the economy, in particular in the tourism industry.

CONCLUSIONS

So, the question of theoretical understanding, normative legal applied regulation in real life by the norms of the law, as well as the question of scientific discussion in this case, that is, within the framework of the topic under study, seem to be a rather voluminous and complex process of the plane of the issues raised, but such that it seems quite interesting and promising for further development, especially given the purpose and significance of the relevant process, in this work it is studied in the field of view of the plane of legal regulation of the relevant public relations that arise on this occasion, they exist and cease in society, and accordingly give rise to the need for their proper regulation by the norms of law. Statistical results of the study require a statement of the thesis that a number of legal mechanisms that exist in the field of legal regulation of investment and innovative support in the tourism sector do not always find their effective application, and sometimes they even remain general references in the provisions of the legislation. Also particularly difficult are the issues of expanding the scope of application in the field of tourism of progressive-modern investment and innovation mechanisms, such as: application in the field of investment and innovation support for the securities and corporate rights; mechanisms for the circulation of intellectual property rights; progressive, but rather unknown (experimental), skills and production experience, including "know-how"; special legal models of the use of resource potential (information and other tangible and intangible resources) in property relations, etc. The practical component and usefulness of the research lies in the prism of fixing the existing problems of the industry, in particular the actual insufficiency of legal regulation of relevant issues of social reality (the actual absence of legal acts aimed at perfect regulation of investment and innovation in the field of tourism) and, accordingly, the creation of sufficient grounds for activating transformations and changes in the field of regulatory regulation of issues raised in the content of this work.

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