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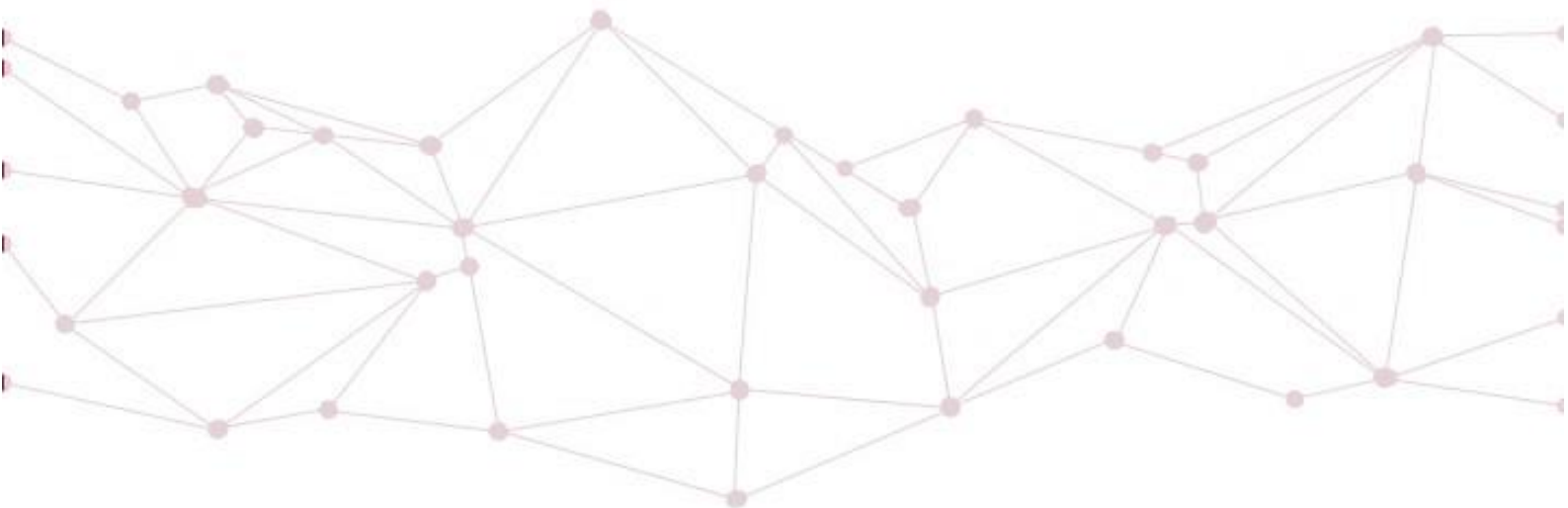
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МАТЕРІАЛИ

II Міжнародної науково-практичної конференції
«Мале та середнє підприємництво: проблеми і
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Рецензенти:

В.В.Микитенко, доктор економічних наук, професор, г.н.с. відділу стратегічного потенціалу сталого розвитку ДУ «Інститут економіки природокористування та сталого розвитку НАН України»;

Д.О.Баюра, доктор економічних наук, професор, професор кафедри економіки підприємства Київського національного університету імені Тараса Шевченка.

Мале та середнє підприємництво: проблеми і перспективи розвитку в Україні: зб. матер. наук.-практ. конференції, 15-16 листопада 2018 р. / Київський національний університет імені Тараса Шевченка. – Київ, 2018. – 234 с.

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Збірник містить матеріали II Міжнародної науково-практичної конференції «Мале та середнє підприємництво: проблеми і перспективи розвитку в Україні», що відбулася 15-16 листопада 2018 року на базі кафедри підприємництва Київського національного університету імені Тараса Шевченка.

Основними напрямками роботи науково-практичної конференції були: світові тенденції розвитку малого та середнього підприємництва, економічна безпека малого та середнього підприємництва, стратегічні пріоритети конкурентного розвитку підприємництва, сучасні виклики соціального підприємництва в Україні та світі.

Видання розраховано на представників наукової спільноти, викладачів, фахівців у галузі підприємництва, торгівлі та біржової діяльності, працівників органів державного управління, студентів закладів вищої освіти.

Тези розміщуються в авторській редакції.

За точність викладеного матеріалу відповідальність покладена на авторів.

Viktor Sereda

PhD in Law, lawyer,
Associate Professor of
the Department of Private Law Disciplines,
University of Modern Knowledge,
Research Fellow of Fil. Dr. Jan-U. Sandal Institute, Norway

TO THE ISSUE OF THE RULE OF LAW IN PROMOTING ECONOMIC DEVELOPMENT: THEORETICAL ASPECT

Modern civil society on the path of its development and implementation of democratic reforms constantly encounters various obstacles and opposition, overcoming which it is being updated and improved. A positive contribution to the social renewal of the current social institutions is made by social entrepreneurs. Social entrepreneurship is a new opportunity to participate in the process of creating a democratic society for an ordinary person, not being elected as a representative [16, 96]. Today, the economy of any state is able to successfully develop thanks to the introduction of innovations and free competition by social entrepreneurs, based on the rule of law and the optimal legal regime. Even J. Schumpeter defined in the entrepreneur the force necessary to stimulate economic progress, if the economy is not static, structurally immobilized and not subject to corruption [18, 10]. In the conditions of the formation of market relations, law, acting as one of the levers of state regulation of the economy, can be an effective mechanism for promoting the development of the national economy with skillful use of this institution. However, the role of the law in promoting economic development has long been ambiguous. Some researchers believe that legal systems can contribute to higher rates of economic development, others, on the contrary, lead to negative results in the economic sphere. At the same time, the necessary causal relationship between the positive and negative influence of the law on economic development is not always amenable to reliable measurement (see generally North (1990); Goodhart (1997);

Posner (1998); Dam (2013); Sandal (2016); McCormack(2018)). In all historical times mankind has tried to find certain limits as well as the degree of necessary state intervention in the economic activities of society. State regulation of economic relations including legal support for economic activity took place in almost all periods of history ranging from minimal to active participation [3, 75-79]. The ancient Greek philosopher Socrates believed that the diversity of the material needs of man is the driving force behind the creation of the state. At the same time, A. Flitcher, Ross B. noted that no one likes being regulated; Moreover, government regulation is contrary to the philosophy of free enterprise [6, 4-5]. State intervention in the process of the formation of social entrepreneurship, an attempt to develop strict legislative rules in this area and a significant strengthening of the state-legal regulation of the economy, as a rule, lead to negative consequences. The approach to the legislative regulation of the modern economy, social entrepreneurship and other spheres of economic activity should be very balanced and very careful. Because it is not rare that the new law has a negative direction, it drastically changes the rules of the game on the market and thus frustrates the efforts of entrepreneurs to expand production, does not contribute to making profits and savings for owners, and does not promise benefits for society as a whole. A vivid example of the negative consequences of such a legislative initiative of the government can be called "Tax Majdan" - mass rallies and protests of businessmen in Ukraine against the adoption by the Verkhovna Rada of Ukraine of the draft new Tax Code in November-December 2010. Proceeding from this it should be noted the special importance of maintaining in the state an optimal legal and regulatory system conducive to the development of an efficient market economy. Here it is necessary with the Nobel Prize winner in economics Professor J. Stiglitz. He noted that it is very important to focus the efforts of the state on solving fundamental problems: the formulation of economic policies; development of education and health care; road construction; maintaining law and order; ensuring environmental protection. In other words state activity in this process should be minimized [19, 3-5]. In the last period of social development scientific discussions about the rule of law and its role in promoting

economic development have moved from simple aspects of political and legal rhetoric to being the ideal foundation that significantly activates the global idea of economic development and stability. Roger Hamlin and Thomas Lyons [7, 25-27] identify six specific conditions for the successful development of entrepreneurship which are quite acceptable and necessary for the activities of current social entrepreneurs. They include among them: surplus, savings, investment, efficiency, equity and stability. According to them with which we can partially agree of the listed conditions the first four are quite understandable to entrepreneurs. Subsistence farming practically does not develop since it only covers its costs. Profit (surplus) makes it possible to make certain savings. The accumulated savings in turn can be invested in the further development of the entrepreneurial business. Effective management allows you to get the best profit and return on investment. Over time all these factors skillfully used together and constantly ultimately contribute to accelerating development and lead to economic growth. However, as the authors further assert the acceleration of economic development cannot occur or it is significantly slowed down in the absence of justice and stability. Justice creates the necessary balance that preserves the society as a whole. The essence of an justice for the entrepreneurship is reduced to the presence in the society of equal access of all citizens to the available opportunities regardless of class race or other affiliation. A society that excludes access to opportunities for a certain part of citizens is not fair. Injustice can lead to widespread protests from entrepreneurs a halt in production and even uprisings. All these circumstances violate stability and do not contribute to the development of the country's economy. However along with the above you can call other significant sources of instability. One of them is natural disasters: earthquakes, floods, storms, etc., which tend to occur independently of human intervention. Another source of instability which directly depends on the human factor is the incompetence of management and existing institutions as a result of which there is a frequent change of leaders and “rules of the game” [11, 18] in society. To function effectively and create surpluses (savings), entrepreneurship needs stability and predictability. Indeed, in modern reality, it is not easy to single out the productive

forces and see economic relations. There has been a complication of the economic system. One of the first economists, Keynes voiced this in his response to the criticism of his main work - this is the principle of uncertainty of the economic future [8,102 - 113]. Social entrepreneurs, operating in various areas of health, education, poverty alleviation, hunger, make a significant contribution to socio-economic development, develop a more equitable society and increase the level of stability. Thus, they ensure the future progressive development of the whole world [9]. The key to economic growth is the effective organization of the economy. In the current world, the key factors for increasing economic efficiency are the share of gross domestic product redistributed by the executive branch, as well as the constantly changing regulation rules (institutions) that this authority introduces. Institutions (Institutions are the “rules of the game” in society) form the basic structures which individuals throughout history have achieved a certain order in society [11, 18].

1. Therefore, the scientific nature of lawmaking is an indispensable prerequisite for proper legal support for the innovative development of the economy. In order for legal regulation to stimulate the economy, it must be basing on a clear understanding of the laws and directions of economic development, comply with the principles of freedom of economic activity, the norms of international law. The legislator must find the resultant between stability and changes in the law, the interests of various subjects, be guided by scientific forecasts and an agreed plan of legislative work [14,7-12].

2. In order to an actively promote the development of the national economy, any power must proceed from the promotion and protection of human rights. This is especially true of the right to an economic freedom and a competition. According to the World Bank, “Markets cannot actively develop without effective property rights. This right is realized through three basic components of the criteria: first, it is protection against theft, violence and other predatory acts and actions; secondly, protection against arbitrary actions, starting from special legal regulation and taxes, direct corruption, disrupting business activity; and, thirdly, a fair and predictable judicial system(World Bank, News Rel: No. 97/1380 / S.). The reliability of property

rights and the development of public and private capital markets were not only factors of the rapid economic development of England in the 17th and 18th centuries and in the subsequent period, but also the establishment of its hegemony in international politics, and later domination over the world [11,18-23].

3. The state must guarantee citizens personal security in this country, as well as the opportunity to exercise their constitutional rights in any sphere of life activity in full. By investing in important sectors of the economy, carrying out business, making legal notices or simply exercising their constitutional rights in everyday life, citizens must be constantly confident of their security. Otherwise, not all our efforts to rally the nation and promote sustainable economic development may be relevant. The rule of law is basing on liability for offenses committed. Individuals, groups, institutions should be fully liable under the law for abuse of official position, which undermine security and pose a danger to other citizens. Maintaining the rule of law means serious negative consequences for any actions that violate human and citizen rights. Only such an approach can create justice and fairness, and the law will cause due respect in all spheres of public life.

4. The basis of the social rule of law is the principle of social justice of Castles [1, 37-39] (as the basic principle). The said author proclaims the social state as the only effective tool for smoothing social differences and conflicts, a tool for ensuring equal opportunities for citizens to realize the personal desires of citizens, their needs and interests. The Constitution of Ukraine (Article 1) also enshrines the position that Ukraine is a sovereign and independent, democratic, social rule-of-law state. As early as 1959, the International Commission of Jurists in the “Delhi Declaration” stated that the rule of law must aim at protecting and promoting the civil and political rights of an individual in order to create conditions under which his legitimate aspirations and human dignity could be freely realized. Despite the fact that this statement was proclaimed more than half a century ago, it is relevant to this day including for Ukraine. These postulates must be actively grafting in all our institutional and social ideals so that we can achieve national cohesion and effective growth of the national

economy of the country. In general, one should agree with Rousseau, who argued that ultimately only the law that was written in the hearts of people matters [15, 13-15].

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Наукове видання

**МАЛЕ ТА СЕРЕДНЄ ПІДПРИЄМНИЦТВО:
ПРОБЛЕМИ І ПЕРСПЕКТИВИ РОЗВИТКУ В УКРАЇНІ**

Матеріали

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Кафедра підприємництва
Економічний факультет
Київський національний університет імені Тараса Шевченка
м. Київ, вул. Васильківська 90-а