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PUBLIC-PRIVATE PARTNERSHIP: ESSENCE, GOALS, STRUCTURE

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SUMMARY

The article deals with the directions of cooperation focused on the implementation of public-private partnership, the definition of the concept of public-private partnership is proposed. The types, concept and essence of public-private partnership are outlined and characterized, and the interaction of public-private partnership as one of the types of strategic relations is emphasized.

Key words: public-private partnership, public administration, economic transformations.

ГОСУДАРСТВЕННО-ЧАСТНОЕ ПАРТНЕРСТВО: СУЩНОСТЬ, ЦЕЛИ, СТРУКТУРА

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АННОТАЦИЯ

В статье рассматриваются направления сотрудничества, направленные на реализацию государственно-частного партнерства, предлагается определение концепции государственно-частного партнерства. Очерчены и охарактеризованы типы, концепция и сущность государственно-частного партнерства, подчеркнута взаимодействие этого партнерства как одного из видов стратегических отношений.

Ключевые слова: государственно-частное партнерство, государственное управление, экономические преобразования.

Statement of the problem. In today's conditions of reforming the economy the directions of cooperation aimed at the implementation of public-private partnership are of particular importance, which require the application of the newest methods, forms and principles of interaction between public authorities, business structures, enterprises, research institutions and the population. One of the main ways to increase the efficiency of state-owned enterprises is the development of public-partnership relations, called public-private partnership (PPP).

The relevance of the research topic. The development of industrial and social infrastructure has a significant impact on the growth of the effectiveness of the functioning of the socio-economic system as a separate territory, and the country as a whole. Socio-economic infrastructure, interconnected with the state social and economic infrastructure, requires systemic development taking into account national and regional interests [1, p. 137]. An essential condition for the effec-

tive functioning of a market economy is the constructive interaction between business and government structures. The nature of this interaction, as well as methods and specific forms may vary significantly depending on the maturity and national characteristics of market relations [2, p. 69].

Status of research. The works of Mr. T. Veblen, Mr. J. Commons, Mr. R. Coase, Mr. D. North, Mr. J. Hodgson and others are dedicated to the problems of the development of theoretical foundations of building relations between the state and the private sector. Among domestic scientists, there are Mr. Kryshtal T.M., Mr. Braylovsky I.A., Mr. Bazhenov A.V., Mr. Varnavsky V.G., Mr. Pavlyuk K.V., Mr. Bondar N.M. and others. Without a doubt, emphasizing the practical requirements for implementing investment projects under the conditions of public-private partnership, we should, in our opinion, consider the most significant theoretical aspects of the formation and development of relations between the state and business.



The Object and Purpose of the Article: to define the essence of public-private partnership, and its most characteristic features, from the point of view of economic theory in public administration.

Presentation of the main material. In recent decades, the economies of a number of developed and developing countries created a special quality of interaction between business and the state, which is commonly called partnership, and extends beyond the well-known dirigism and paternalism from the state, and the easy use by state authorities of entrepreneurship opportunities for implementation socially meaningful goals. The developing partnership, unlike traditional relations, creates its own models of financing, management relations, etc. [2, p. 69].

The public-private partnership institute has deep historical roots. For example, in the 17th century, the governors of the American states gave private persons who came from other countries, concessions to land, rivers, construction of railways. In France, in the age of Napoleon use of mineral resources, which were in private ownership, was possible only with the permission of the state [2].

Modern economic transformations are aimed at changing the proportions of the distribution of national income in favor of entrepreneurial profits, as well as the reduction of barriers to free enterprise, expansion of the space for the free movement of private capital in those areas that were previously unavailable to it. Accordingly, public-private relations based on partnership gained new development, and strategic relationships between business and government structures are becoming increasingly popular both in developed and developing countries.

The concept of "partnership" (translated from the French *partenaire*, a participant in any joint activity) is of broad significance and is used in the context of international, regional, sectoral cooperation, interaction of power, business and society.

Encyclopedic sources define the term "partnership" as concerted actions of participants in a joint case; relations, contacts of the state, public organizations, enterprises based on equal rights and mutual benefit [3]. Theoretical studies and practice of public-private partnerships are formed in the context of the main pro-

visions of the mixed economy (economy, which combines the features of market-based economic systems, where the state adjusts and compensates for the deficiencies of market mechanisms of self-regulation [4].

Various forms of partnership have been known for a long time, and they have been widely developed at the end of the last century as a result of the liberalization and globalization of the economy.

The term "public-private partnership" (synonymous with "private-public partnership", "public-private partnership", "private-public partnership", "Public-Private Partnership" - PPP) becomes known since the 90s of the XX century and relates mainly to the "British model" of public-private partnership. In 1992, the government of D. Major announced the so-called "private financial initiatives" ("PrivateFinanceInitiative" – PFI), which represented a modernized concept of management of state property. Its essence was that, in the framework of public-private partnership agreements and contracts, the functions of financing (construction, reconstruction, operation, management, etc.) of the state-owned social-cultural and industrial infrastructure should be transferred to the private sector. Such a radical change in the public administration system in Great Britain caused significant changes in the institutional environment, as well as the relationship between the state apparatus and private business [5].

The concept of public-private partnership is used by governments of many countries of the world, and there are numerous scientific researches in this sphere. That is why various approaches to the definition of PPP were formed.

In a broad sense, the term "public-private partnership" includes all forms of cooperation between the state and the private sector, which are in the field between the solution of tasks traditionally related to the competence of the state, the state itself, on the one hand, privatization – on the other [6].

In a narrower sense, public-private partnerships are considered as long-term contractual cooperation between the state and the private sector for the fulfillment of public tasks, which covers the entire life cycle of the relevant project: from planning, financing, construction or reconstruction of the objects necessary for the implementation of the project, up to

their exploitation, including maintenance, operation and processing [7].

From an economic point of view, public-private partnerships are compared with indirect privatization. It is about redistribution of powers between the state and business in strategic sectors that can not be privatized, but for those structures where the state does not have development funds (housing and communal services, social sphere, transport, improvement of human settlements, cultural heritage objects, etc.). In this case, the important conditions for the effectiveness of PPP are the degree of business involvement in the implemented project and the preservation of the state significant participation in economic activity. Otherwise, the implementation of public-private partnerships can lead to partial or complete privatization by business of objects of partnership [8].

The World Bank [9] gives the following definition: PPP is a long-term contract between a private party and a government entity, for providing a public asset or service, in which the private party bears significant risk and management responsibility, and remuneration, is linked to performance.

The Organization for Economic Co-operation and Development (OECD) gives the treatment of PPPs as long term agreements between the government and one or more private partners (which may be operators or sponsoring organizations) according to which a private partner provides services in such a way that the purpose of the state of providing the service related to the benefits of private partners and where the effectiveness of this linkage depends on adequate transfer of risks to private partners.

A public-private partnership is sometimes also used for a number of mechanisms of interaction between public and private organizations and contributes to the achievement of public policy goals and may include, for example:

- mechanisms for the exchange of information (such as public-private partnerships against fraud in the health-care sector of the US with the participation of federal authorities, state officials, private health insurance organizations and other medical groups);

- voluntary activities carried out by private companies for public purposes and in coordination with relevant bodies



such as healthcare, community or education projects in large foreign direct investment projects;

- private funding of public investment projects on a charitable basis, which may be associated with some private participation in the project implementation;

- State intervention to support the development of the private sector as a whole, and in particular in target sectors such as land, assets, equity or guarantees, otherwise, entirely private enterprises will not participate in the provision of public services.

The object of the PPP is property that is part of the transport, engineering and social infrastructure (or in general, it is a part of the public sector).

The subject of PPP is the relationship in the process of interaction between the public and private sectors in relation to construction (reconstruction, modernization), operation and management of infrastructure objects.

- Depending on the interpretation of the essence of the partnership, the following [10] parties to the public-private partnership include state and private business as well as society;

- the interaction of the parties is fixed on the official, legal basis;

- the interaction of the parties is of an equal nature;

- public-private partnership has a clearly expressed public and social orientation;

- in the process of interaction on the basis of public-private partnership, the resources and contributions of the parties are consolidated, merged;

- financial risks and costs, as well as achieved results are distributed between the parties in predetermined proportions.

Based on the definitions and features discussed, the basic features of public-private partnership can be distinguished:

1. Partnership partners must be represented by both the public and private sectors of the economy.

2. Interactions of the parties should be fixed in legal documents (agreements, contracts).

3. Interrelations of the parties should be partneral that have equal rights.

4. The parties of the public-private partnership should have common goals, formed on the basis of the public interest.

5. Parties should combine their resources (material, financial, labor) in order to achieve common goals.

6. Parties of public-private partnerships should share costs and risks among themselves, and jointly participate in the use of the obtained results.

The purpose of the PPP at the national level includes three interconnected elements [11]:

1. Accelerating the pace of socio-economic development due to additional investments in infrastructure objects, which are borrowed from extrabudgetary sources, as well as at the expense of improving the quality of services of the public sector.

2. Savings of budget funds in the short term due to distribution of funding for a longer period.

3. Increasing the efficiency of using budget funds by attracting the private sector.

Cooperation with the private sector, in PPP projects, can form a number of benefits for the state:

- acceleration of infrastructure creation; The PPP often allows the public sector to transfer downstream capital expenditures into the flow of current service payments. This allows projects to operate when access to social capital may be restricted (or blocked by public expenditure or annual budget cycles), thereby providing such necessary investments;

- faster realization; the division of project and construction responsibilities towards the private sector, in conjunction with payments related to the availability of the service in order to provide capital projects in shorter term of construction;

- overall reduction of project costs; PPP projects that require prompt and maintenance service. Providing services to the private sector with strong incentives to minimize costs throughout the terms of realisation of the project, which by its nature is difficult to achieve within the constraints of traditional public sector budgeting;

- a more efficient allocation of risks; One of the main principles of any PPP project is the distribution of risks, which will allow the best management of the project at a minimal cost. The goal is to optimize rather than maximize risk transfer in order to guarantee the achievement of an optimal effect;

- more effective incentives for implementation; project risk sharing should encourage a private contractor to improve

management and performance at any project. In most PPP projects, full payment to the private sector contractor will only occur if the required standards of service are met on an ongoing basis;

- improvement of quality of service; international experience suggests that the quality of service achieved in the PPP is often better than this is achieved through traditional procurement. This may reflect closer cooperation at the expense of the scale, introduction of innovations in the provision of services, or incentive measures and penalties, which are generally included in the PPP contract;

- generation of additional income; the private sector may be able to receive additional revenues from third parties, thereby reducing the cost of the public sector subvention. Additional revenue may be generated by using reserve capacities or utilizing surplus assets.

Private sector technology and innovation assist to ensure better public services through increased operational efficiency. The public sector provides incentives for the private sector to implement projects within a set time frame and within the budget.

Formation and development of public-private partnership projects in the world practice are carried out on the following principles [11]:

- priority of the interests of the state, which means that the state acts as the customer of the project and defines the basic rules of interaction with business;

- effective distribution of risks between the parties, that is, the risk should be passed on to the party that can manage it more efficiently;

- political support of the state, which means the existence of a clear state policy, which is the basis for solving all contentious issues that arise during the implementation of public-private partnership projects;

- principles of transparency, according to them the society when the actions of the partners are aimed in order to meet its needs, has access to information regarding their activities;

- partner, equal relationship between the parties.

Public-private partnership is the strategic relationship which subjects entered into for the realization of common goals, while the distribution of risks and responsibilities takes place. It involves the phased



development of relations between different economic entities. Their evolution can be defined in this way [12].

1) contacts – the most simple economic relations, which are characterized by episodicity;

2) interaction – stable economic relations, which are based on agreements concluded for a long period;

3) cooperation – close economic ties, based on common, predetermined and agreed intentions, which are enshrined in long-term agreements and contracts.

It should be emphasized that interaction within the framework of public-private partnership is possible only in case of agreement of interests. PPP is not a simple addition of resources. PPP parties have different motivations. Each of the partners has its own goals, solves its specific tasks. The public sector is interested in increasing volumes and improving the quality of services provided in the infrastructural and socially oriented sectors to the population and economic actors. The private sector seeks to steadily receive and increase profits. Moreover, strategically thinking business builds its priorities, first of all, not just for the amount of profits, but in the interests of sustainability of income from projects. In doing so, both parties should be interested in the successful implementation of projects in general [13].

In certain areas, private business operates without the participation of the state sector of the economy. The traditional areas of state responsibility include defense, social sphere, infrastructure, which by the level of profitability is not very attractive for the private sector. This suggests that public-private partnerships are effective in those areas where there is interest in private capital, but at the same time a strong state component (energy, transport, housing and communal services, telecommunications, health, education). It can be considered as an alternative to privatization of socially important, of strategic importance, objects of state ownership.

Thus, it is possible to distinguish PPP projects that are characterized by relatively low commercial and high social efficiency. There are projects that require state support, since their implementation brings significant benefits to society, but due to relatively low financial efficiency, it does not attract private stakeholders interested in their realization [14, p. 21].

Based on foreign practice, it can be said that in PPP projects, the main sources of financing are business assets, the budget system (basically the appropriate level) and lending institutions (at the expense of funds provided on a reciprocal basis, under the guarantees of the state, business). As a result of the application of these funding sources, such mechanisms of financing PPP projects are created as: credit (based on borrowing); mixed (based on attracting funds from two or more partners); hybrid (based on the interaction of the first two mechanisms while using funds from two or more partners, combined with a loan). Implementation of PPP projects is always accompanied by certain risks and benefits. At the same time, the system of cooperation between public authorities and private business is more likely to succeed and fruitful cooperation in the implementation of investment projects [1, p. 131].

Conclusions. Taking into account the results of the study of theoretical views of the essence of public-private partnership, highlighted its most characteristic features, from the standpoint of economic theory, one can propose the following definition of this concept: public-private partnership – legally formalized system of economic relations, reflecting the mutually beneficial interaction of state and private property for the purpose of its profitable use by minimizing the risks of the activity and efficient use of all available resources for satisfaction public needs, within this framework socially significant projects or measures using state property are implemented, based on the distribution of powers, risks, financial costs and responsibilities between the parties, in order to increase the effectiveness of the state's performance of its functions, which is carried out on the basis of the contract, the subject of which is the restoration of infrastructure, the construction and operation of new social objects, which object is the infrastructure. Unlike other definitions, where the focus is mainly on the form of a legal contract, the form of a means of attracting the private sector to the provision of public services, the form of the mechanism of financing and attracting new investments, etc., than the content of interaction, the idea of public-private partnership as a system of relations reflects a high-quality, stable relationship that manifests itself

every time for state-business partnerships in economic activity. At the same time, the proposed definition is only one of the attempts to approach the disclosure of the true nature of the relationships that arise between the state and business for public-private partnerships.

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АНАЛИЗ СОСТАВОВ ПРЕСТУПЛЕНИЙ, В КОТОРЫХ СЛЕДСТВИЕМ ЯВЛЯЕТСЯ НЕОСТОРОЖНОЕ ПРИЧИНЕНИЕ СМЕРТИ ЛИЦУ, И ОПРЕДЕЛЕНИЕ В НИХ ОСНОВНОГО И ОБЯЗАТЕЛЬНОГО ДОПОЛНИТЕЛЬНОГО ОБЪЕКТОВ ПРЕСТУПЛЕНИЙ

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АННОТАЦИЯ

Статья посвящена анализу статей Особенной части Уголовного кодекса Украины, в которых причинение смерти лицу по неосторожности является признаком основного состава преступления и квалифицированного состава преступления. Определен основной непосредственный объект и обязательный дополнительный объект состава преступления.

Исследован объект преступления как элемент составов преступлений, последствием которых есть неосторожное причинение смерти человеку. Рассмотрены научные подходы к определению объекта преступления, проведен анализ объектов составов преступлений, последствием которых является неосторожное причинение смерти лицу.

Ключевые слова: неосторожное причинение смерти, объект, основной непосредственный объект, обязательный дополнительный объект, последствия, признак основного состава, признак квалифицированного состава преступления.

ANALYSIS OF BODIES OF CRIMES, IN WHICH THE CONSEQUENCE IS CAUSING THE DEATH OF A PERSON BY NEGLIGENCE, AND DETERMINATION OF THEIR BASIC AND COMPULSORY ADDITIONAL OBJECTS

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SUMMARY

The article deals with the analysis of articles of the Special Part of the Criminal Code of Ukraine, in which causing the death of a person by negligence is both an essential element of the crime and a qualified element of the crime; the determination of their basic direct object and compulsory additional object of the body of crime.

The object of the crime as an element of the bodies of crimes, the consequence of which is causing the death of a person by negligence, is investigated. The scientific approaches to the definition of the object of the crime are considered, the analysis of the objects of the bodies of crimes, the consequence of which is causing the death of a person by negligence, is carried out.

Key words: causing the death by negligence, object, basic direct object, compulsory additional object, consequences, essential element of the crime, qualified element of the crime.

Постановка проблемы. Проблема определения объекта преступления в уголовно-правовой науке является ключевой, поскольку любое преступление посягает на конкретный объект. Определение последнего имеет боль-

шое значение для выяснения юридической сущности, характера и степени общественной опасности посягательства, его правильной квалификации, отграничения от других преступлений и тому подобное. Особенности