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International experience of public-private partnership in agriculture

Міжнародний досвід державно-приватного партнерства у сільському господарстві

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Abstract

Agriculture, as one of the most important sectors of the economy, needs constant improvement at the legislative level. Its importance lies in providing the population with provisions and obtaining raw materials for industry. States are trying to create a mechanism for regulating agricultural relations that would be in line with international principles and efficient. One such mechanism is the introduction of the institution of public-private partnership. The experience of foreign countries allows to maintain the state of legislative support at a high level and, accordingly, the effective implementation of its norms at a high level for the implementation of state social policy. The work aims to analyze the international experience of public-private partnerships in agriculture. During the research, the authors used such methods as a method of analysis of normative documents, comparative legal method, and formal-legal method. As a result of the study, the international experience of public-private partnership (in general) and in the field of agriculture (in particular) was examined. The historical stages of formation and improvement of this institute are studied. The advantages and disadvantages of public-private partnership and possible ways to improve it are studied.

Анотація

Сільське господарство як одна з найважливіших галузей економіки країн потребує постійного вдосконалення на законодавчому рівні. Його важливість полягає в забезпеченні населення провізією і отримання сировини для промисловості. Держави намагаються створити такий механізм регулювання сільськогосподарських відносин, який відповідав би міжнародним принципам та був ефективним. Одним з таких механізмів є впровадження інституту державно-приватного партнерства. Досвід зарубіжних країн дозволяє підтримувати стан законодавчого забезпечення на високому рівні та відповідно ефективно реалізацію його норм на високому рівні задля реалізації державної соціальної політики. Метою роботи є аналіз міжнародного досвіду державно-приватного партнерства у сільському господарстві. Під час проведеного дослідження ви користувалися так методи, як: історичний, узагальнення, метод аналізу нормативних документів, порівняльно-правовий метод, формально-юридичний метод. У результаті проведеного дослідження було проаналізовано міжнародний досвід державно-приватного партнерства в цілому та у сфері сільського господарства зокрема. Вивчено

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Keywords: public-private partnership, public and private partner, agriculture, international experience.

Introduction

In modern conditions of economic development, states try to maintain it at a high level. The social orientation of democratic countries to create their functions forces them to create and implement effective measures. One such measure is a public-private partnership.

The interaction between the state and the private sector has become a driving force for the modernization of infrastructure in many countries in recent years. Such cooperation makes it possible to increase the level of investment attractiveness in certain regions, reduce risks during the implementation of infrastructure projects, and improve the level of quality of infrastructure services (Nagorny, 2017).

Public-private partnership is a new phenomenon for Ukraine, but most countries around the world have been using this tool for a long time and proving its effectiveness. The mechanism of public-private partnership proved to be effective, given the combination of partners' resources, risk-sharing, and profit from project implementation.

Public-private partnership as a form of interaction between the state and the private sector for the implementation of socially significant projects appeared in the Middle Ages. Gradually improving it, the states came to legislate the rules governing relations arising in the process of public-private partnership.

In the territory of Ukraine, there is a low level of implementation of public-private partnership projects due to a lack of experience and specialists in the field of public-private partnerships. However, some progress in the use of the public-private partnership mechanism in Ukraine can be seen in the concession, which is a form of its implementation. Thus, Ukraine received 3.7 billion hryvnias of investments. Thanks to changes in the legislation on public-private partnerships and state support for investment projects, Ukraine has received tools to attract large investors, who are willing to

історичні етапи становлення та вдосконалення даного інституту. Досліджено переваги та недоліки державно-приватного партнерства та можливі шляхи його вдосконалення.

Ключові слова: державно-приватне партнерство, державний та приватний партнер, сільське господарство, міжнародний досвід.

invest more than 20 million euros in Ukrainian enterprises (Agropolit, 2020).

Given the above, it is necessary to examine the international experience of public-private partnership in the field of agriculture, to draw attention to the strengths and weaknesses of this issue, and to suggest tools that can drive progressive change in the field.

Theoretical Framework or Literature Review

The following researchers studied the issue of public-private partnership, both in Ukraine and abroad: Varnavsky (2006), Lazar (2013), Pavlyuk, S., & Pavlyuk, K. (2010), Matyavina (2008), Vikhryan (2003), Oliynyk (2005), Kazakov (2008), Makarov (2009), Zakharina, Symonenko, & Saykevych (2018), Knir (2018), Kovaleva (2019), Baranenko (2011), Mygas (2017), and Nagorny (2017), Pavlova, Polunina, Tkalych, Mankovskyi, & Zubair (2020).

Varnavsky (2006), Lazar (2013), Pavlyuk S., & Pavlyuk, K. (2010), and Makarov (2009), in their research, in terms of socio-economic problems, highlighted the concept of public-private partnership, its essence, and role in the development of the state. Thus, Pavlyuk S. and Pavlyuk M. believe that in a broad sense, the interpretation of the concept of public-private partnership includes constructive interaction of the state, private sector, civic institutions in economic, political, social, humanitarian, and other spheres of public activity.

Varnavsky (2006) and Lazar (2013) believe that the interaction of the state and the private sector is an institutional and organizational alliance between public authorities and businesses for the implementation of socially significant projects. Additionally, it should be highlighted, that Kazakov (2008) draws attention to the complexity of defining public-private partnership since it includes many social relations. Furthermore, Makarov (2009) refers to public-private partnerships as the third sector of the economy.

The historical development of public-private partnerships was studied by Vikhryan (2003) and Oliynyk (2005). In their works, the genesis of public-private partnership from medieval times to the end of the XX century was analyzed.

The international experience of cooperation between the state and the private sector was studied by Knir (2018), Kovaleva (2019), and Mygas (2017).

Therefore, Knir (2018) devoted her work to current issues of public-private partnership as a necessary tool for implementing social projects. The study considers the essence of the category of public-private partnership, reveals the features of its most common forms, in particular in the economy of Ukraine, which takes into account economic and political components, which form the process of formation and development of public-private partnership in the world and Ukraine.

What is more, it is worth mentioning, that Kovaleva (2019) considers the general characteristics of the model of public-private partnership in Canada. The general emphasis is on the bodies that ensure the effective operation and development of the public-private partnership program in Canada. The paper also identifies key success factors for Canada's public-private partnership.

Furthermore, Mygas (2017) studied the development of public-private partnerships in Great Britain. In particular, the author drew attention to the theoretical concepts of public-private partnership in the world, explored the history of relations between the state and the private sector, the forms of public-private partnership in the UK.

Finally, theoretical and practical aspects of public-private partnership in the world and Ukraine were studied by the following scientists: Nagorny (2017), Zakharina, Symomenko, & Saykevych (2018). Their works highlight the basic concepts of public-private partnership, highlight the main benefits that partners receive in the implementation of public-private partnership projects, analyze the relevant risk allocation.

Despite the large number of scientific papers that examine the issue of public-private partnership, such issues as the organizational structure of the institute of the public-private partnership remain unexplored; the possibility of creating a specialized body or organization that would have

the authority to coordinate and monitor the implementation of public-private partnership projects; liability for violation of the terms of the public-private partnership agreement; international cooperation in the field of public-private partnership, etc.

Methodology

The methodology determines what and how is studied using a theory that creates a system of elements, where the defining element is subordinate to all others that explain the origin, relationships, nature, and pattern of development of the object of study.

To reveal the research topic, the following methods were used: historical, generalization, method of analysis of normative documents, comparative legal method, formal-legal method, method of observation, and abstraction.

First of all, we should pay attention to the interest of using the historical method. The historical method was used in the study of the historical stages of development of the institution of public-private partnership, traced the patterns of its improvement in different countries.

The method of generalization helped to highlight the provisions on the essence of public-private partnership, the relations arising from it, to highlight the advantages and disadvantages of its use in practice. Also, by summarizing the international experience – public-private partnerships in agriculture, conclusions were drawn on the improvement of public-private partnerships in Ukraine.

Theoretical aspects of public-private partnership in Ukraine were studied by analyzing normative documents, in particular, the Law of Ukraine “On Public-Private Partnership” (Law No. 2404-VI, 2010) helped to highlight the general provisions of the mechanism of interaction between the state and the private sector for the implementation of socially significant projects, the procedure for its application, the choice of a private partner, etc.

Naturally, a special role in the study of this topic should be given to the comparative-legal method, which allowed to compare different models of public-private partnership, mechanisms for its provision.

It should be remarked, that with the help of the formal-legal method, the concept of public-private partnership is defined, the need to

improve the legislation in the field of public-private partnership is substantiated.

Observation is a purposeful study of objects, which is mainly based on the data of the senses (sensations, perceptions, ideas). It was with his help that it became possible to formulate conclusions about the transfer of international experience of public-private partnership to the domestic level and identify its main advantages.

Additionally, the method of abstraction (which consists in the mental distraction from a number of properties and relations of the phenomenon under research, while highlighting the properties (primarily essential, general) of interest in a particular study) was useful in studying the general theoretical characteristics of public-private partnership on the example of foreign countries and, on this basis, the existing practice of public-private partnership in the field of agriculture is studied.

Using such a method as an experiment, ways to improve the institution of a public-private partnership at the national level were proposed, referring to international experience. Also by interpreting as one of the elements of this method the doctrinal concepts of public-private partnership, the mechanisms of its implementation were studied.

Finally, the system method during the research allowed to consistently create a presentation of the material as a whole, to structure examples of

public-private partnership projects that have been implemented in foreign countries.

Results and Discussion

Public-private partnership: international experience in the agricultura

In current conditions, public-private partnership has been beneficial for successful socio-economic development at the regional and state levels.

The developed countries of the world do not lose the opportunity to use an effective tool to achieve successful results in ensuring the social well-being of their citizens.

Knir (2018) divides the states into three groups according to the level of development of the public-private partnership. Thus, the first (highest) group of development includes Great Britain and Australia; the second (middle) – e.g. the United States, Japan; the third (lowest) – e.g. Slovakia, India, Latvia, Czech Republic, Russia. Ukraine also belongs to the latter.

Among the many areas of economic activity, agriculture plays an essential role in providing the population with food, obtaining raw materials for a number of industries, the application of state export policy.

Examples of public-private partnerships in agriculture in foreign countries can be seen in Table 1.

Table 1.

Public-private partnerships in agriculture in foreign countries. Data provided by Zakharina, Symomenko, & Saykevych (2018).

Scope of public-private partnership	Countries
Construction, operation and management of irrigation projects	India, Peru, Morocco, Jordan, Brazil
Construction, maintenance and management of markets for the construction of fruits, vegetables and local agricultural products	Philippines, Jordan
Processing of agricultural waste	Moldova
Squeezing sugar cane to generate electricity	Brazil, Fr. Mauritius

Ethiopia is a clear example of a public-private partnership to ensure the functioning of irrigation systems.

In 2006, the Ethiopian government, with the support of the World Bank, prepared an Irrigation Action Plan using a public-private partnership mechanism. This land irrigation strategy helps to attract investment, restore

irrigation and increase crop yields in general, which, in turn, contributes to the development of the country's economy.

The Ethiopia Public-Private Partnership for Irrigation Systems provided:

1. Preparation of tender documents and draft agreement on irrigation systems.

2. Signing of an agreement on the involvement of the French operator BRL Ingénierie for the operation and maintenance of the project.
3. Obtaining construction funding from the Ethiopian government.
4. Planning to increase the level of water supply for more than 6 thousand land holdings and cover maintenance costs.

A similar public-private partnership project exists in Brazil. According to him, the government has committed to allocate land and the necessary infrastructure, the private partner is responsible for the development of infrastructure to ensure full irrigation of the site, undertakes to transfer at least 25% of the land provided to farmers. Similarly, under the project, the private partner makes a profit by selling water and paying for capacity from the government (White, 2013).

In the Philippines, an example of a public-private partnership is a cold storage system agreement that involves a large number of customers, manufacturers, and distribution companies that can maintain a certain temperature range to ensure the storage of perishable products (natural agricultural products, seafood, frozen products, chemical and pharmaceutical products, etc.).

In addition to agriculture, public-private partnership agreements are successful in other sectors of the economy. Most public-private partnership projects in the EU were in the following areas (The Ministry of regional development, construction, housing and communal services, 2017):

- transport 31%;
- medicine 19%;
- education 13%;
- telecommunications 10%.

The above statistics indicate the prospects for the development of the public-private partnership market in Ukraine.

Attention should also be paid to the public-private partnership model in Canada.

Unlike a number of other countries, Canada has established the Public-Private Partnership Development Council of Canada (PPP Canada), which is a national, non-profit, collective organization with a wide range of representatives from both the public and private sectors. Its activities are aimed at promoting the idea of public-private partnership through research,

scientific conferences, etc. The most important feature of the Canadian Public-Private Partnership Institute is the state's funding of draft agreements concluded on a public-private partnership basis and the consultation of private partners by PPP Canada specialists (Kovaleva, 2019).

Regarding the system of cooperation between the state and the private sector in the United States, we can distinguish the following features:

- the absence of a federal law that would establish common approaches to the implementation of public-private partnership projects;
- an organization responsible for the development of public-private partnerships in the United States - the National Council for Public-Private Partnerships (The National Council for Public-Private Partnerships). It promotes the introduction of a public-private partnership at all levels of government and creates conditions for cooperation between the public and private sectors in socially important areas (Baranenko, 2011).

The board has the following functions:

- 1) informative – the organization provides general information to promote public-private partnership, is responsible for information exchange between the state and the private sector in the practical implementation of public-private partnership;
- 2) educational – the creation of training, seminars on public-private partnership;
- 3) auxiliary – the council provides methodological support during the preparation and implementation of public-private partnership projects, analyzes the regulatory framework governing public-private partnerships;

A large share of involvement of commercial firms to perform certain activities of municipal authorities (water supply, sewerage, garbage collection, school education, etc.). So from 65 basic kinds of activity of the municipal power in each settlement commercial firms are involved on the average for the performance of 23, which allows the local power to save from 20 to 50 percent of budgetary funds (Mygas, 2017).

Thus, given the above, it is possible to conclude about the effectiveness of the institution of public-private partnership for the state economy,

which follows from the delegation of socially significant powers of the state to private partners, which is fixed in the contract. In addition, public-private partnerships are an effective tool in providing society with vital resources, such as road construction and repair, supply and storage of food for the population, assistance in agriculture (irrigation and drainage of land, etc.).

The example of Ethiopia, Brazil, and the Philippines shows effective work related to the implementation of public-private partnership projects in agriculture. The experience of Canada and the United States also creates prospects for the implementation of public-private partnership projects, as in these countries there is a PPP system, which is constantly improved by creating specialized bodies for public-private partnership and holding qualified meetings on the development of public-private partnership as an institution in general and training in particular.

Public-private partnership as a mechanism for implementing public policy and interaction between the state and business

The partnership between the state and the private sector began long before the formation of modern legal systems. The first mention of such cooperation can be seen in the form of a concession dating from the XII-XIII centuries. Thanks to agreements between the state and entrepreneurs, cities were built, and new lands were arranged in France.

During the XVI-XVIII centuries, French monarchs gave permission for the construction of roads, bridges, canals, dams, street lighting, garbage collection, mail delivery, public transport, opera houses to entrepreneurs (Vihryan, 2003).

A similar system of cooperation also existed in the United Kingdom. In the second half of the XVIII century, a concession agreement was signed for the construction of the Oxford Canal (USAID, 2011).

Agreements in the framework of public-private partnership in their modern sense began to be concluded in the early XIX century. in European countries mainly in the field of urban and communal services, construction of railways and highways, etc.

In the United States, public-private partnerships date back to the 1950s. Thus, the first public-private partnership projects were aimed at

financing educational programs and urban development (Matyavina, 2008).

On the territory of Ukraine, the embryos of public-private partnership appeared in the second half of the XIX – early XX centuries. Thus, during this period, based on the concession agreement, a centralized water supply system was built, city lighting was installed, and public transport was launched. In 1871, the Gas Lighting Society was registered, with which the City Duma signed a contract for the installation of street gas lanterns (Oliynyk, 2005).

With the development of states and their legislation, the concept of concession and the relations arising from it have been somewhat separated and detailed. Ukraine is no exception. It should be noted that the division of law into private and public is a scientific abstraction, which allows to characterize in general terms the two main areas of legal regulation of public relations (Kharytonov, Kharytonova, Kolodin, & Tkalych, 2020).

Following paragraph 11 of Part 1 of Art. 1 of the Law of Ukraine "On Concession" (Law No. 155-IX, 2019) concession is a form of public-private partnership, which provides the concessionaire to the concessionaire the right to create and / or construction (new construction, reconstruction, restoration, overhaul and technical re-equipment), and / or management (use, operation, and maintenance) of the concession object, and / or provision of socially significant services in the manner and under the conditions specified in the concession agreement, and also provides for the transfer to the concessionaire of most of the operational risk, including demand risk and / or supply risk. In addition, this document details the procedures for initiating and deciding on a public-private partnership, including concessions, the concession tender procedure, the selection of a concessionaire (private partner), and many other relevant provisions.

On July 1, 2010, the Law "On Public-Private Partnership" (Law No. 2404-VI, 2010) was adopted, which defines the organizational and legal principles of interaction of public partners with private partners and the basic principles of public-private partnership on a contractual basis. Following Part 1 of Art. 1 of this Law, public-private partnership – cooperation between the state of Ukraine, territorial communities represented by the relevant state bodies that, under the Law of Ukraine "On Management of State Property" manage state property, local

governments, the National Academy of Sciences of Ukraine, national branch academies of sciences (state partners) and legal entities, except for state and communal enterprises, institutions, organizations (private partners), which is carried out based on an agreement in the manner prescribed by this Law and other legislative acts and meets the characteristics of public-private partnership, defined by this Law. The main principles of public-private partnership in Ukraine in Article 3 of the Law.

Besides, the Law also contains norms on the forms of implementation and objects of public-private partnership, on the procedure for making a decision on the application of public-private partnership, on the definition of a private partner, on state support, guarantees, and control.

There is no consensus among scholars on the definition of public-private partnership. Thus, Lazar and Varnavsky define the interaction of the state and the private sector as an institutional and organizational alliance for the implementation of national and international, large-scale, socially significant projects in a wide range - from the development of strategically important industries to public services (Varnavsky, 2006; Lazar, 2013). According to Pavlyuk, & Pavlyuk, (2010), public-private partnership is the cooperation of the state, private sector, civic institutions in political, economic, humanitarian, and other spheres of public activity to implement socially significant projects based on the priority of state interests, its political support, consolidation of resources of the parties, effective distribution of risks between them, equality and transparency of relations. Makarov believes that by combining elements of the private and public sectors of the economy, the public-private partnership can be considered a third sector of the economy.

Thus, we can conclude that public-private partnership is a rather broad concept and covers various forms of cooperation between the public and private sectors. And the first is the customer of certain works, and the second – their executor. As noted by Kazakov (2008), one of the problems that arise during the intention to define public-private partnership is a fairly wide range of relations that could potentially fall under the scope of public-private partnership.

The multifaceted study of the public-private issue and the attention to it testify to its great potential. However, as practice shows, in Ukraine, the use of the mechanism of public-private partnership is at a fairly low level.

According to the statistics of central and local executive bodies in Ukraine as of 2021 on the terms of PPP concluded 192 agreements, of which 39 agreements are completed (29 – concession agreements, 6 – agreements on joint activities, 4 – other agreements), 153 – not performed (118 – not implemented, 35 – terminated / expired) (Ministry of Economic Development and Trade of Ukraine, 2021).

Despite the "unpopularity" of public-private partnership in Ukraine, it is possible to determine its advantages, namely:

- providing the government with access to alternative private sources of capital;
- use by the state of financial, organizational, intellectual capabilities of a private partner to meet socially significant needs;
- optimal distribution of risks;
- the use of management technologies of the private sector
- improving the quality of services provided as a result of combining the resources of the private and public sectors.

However, the implementation of projects on the terms of public-private partnership has the following disadvantages:

- creation of financial liabilities for the long term;
- given the lack of sufficient experience in the implementation of projects on a public-private partnership, the lack of necessary high-level specialists;
- due to the length of the concluded agreements, it is impossible to take into account all possible risks that may arise during the implementation of the planned project.

Thus, given the above, we can conclude that the institution of public-private partnership in Ukraine at an early stage of development. Given the identified advantages and disadvantages, the need for further development of public-private relations requires borrowing international experience.

Conclusions

As a result of the study, the following conclusions were made.

1. Public-private partnership in the field of agriculture has advantages and disadvantages. The benefits are that the government has access to alternative private

sources of capital, the state can use the financial, organizational, intellectual capabilities of the private partner to meet socially urgent needs, and the use of private sector management technologies allows more effective implementation of a number of public sector activities. However, the administration of projects in a public-private partnership has such disadvantages as the creation of financial obligations in the long run and the inability to take into account all possible risks that may arise during the implementation of the planned project.

2. Different models of public-private partnership in the field of agriculture are singled out. For example, in Canada, the Public-Private Partnership Council of Canada (PPP Canada) has been established, which is a national, non-profit collective organization with a wide range of representatives of both the public and private sectors, and the United States has established a development organization. Public-Private Partnership in the United States – National Council for Public-Private Partnership.
3. Different countries have implemented models of public-private partnership in different ways (from the implementation of individual laws to the usual conclusion of agreements).

Given Ukraine's international experience, it is considered necessary to integrate positive provisions to increase the share of public funding of public-private partnership projects, initiate and develop a number of effective legislative changes, including the creation of a separate body to deal exclusively with public-private partnership.

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