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THE CORPORATE FORM OF INNOVATING ENTITIES IN UKRAINE

Introduction. High risk associated with innovation requires reducing possible losses during the implementation of innovation as much as possible. The form of a legal entity is a means of achieving this goal. It allows separating the obligations of legal entity from those of its members.

Problem Statement. The legislation of Ukraine and foreign states contains numerous forms of legal entities in the sphere of innovation. Therefore, it is necessary to systematize them.

Purpose. The purpose of this research is to form a single vector of systemic legal regulation of legal entities in the field of innovation based on the analysis of domestic and foreign doctrine and legislation.

Material and Methods. In the process of research, a complex of general scientific and special methods has been used. Materials for the study are the publications of domestic and foreign researchers, the applicable legislation of Ukraine and foreign countries.

Results. The comparative analysis of the doctrine and practice of foreign states has shown dispositive approaches of legislation of different states to the differences between the science parks and the technology parks and their ties with R&D or educational institutions in them. However, the systemic legal regulation of such legal entities needs the application of their common concept that will be the basis for unified approaches to this problem.

Conclusions. Public interest essentially influences the studied legal entities and defines their exclusive legal capacity; special procedure for their creation; special status of innovating entity; special requirements to the structure of founders; specific features of contributions to the authorized capital; the requirement of the presence of innovation project.

Keywords: innovation, technology park, science park, legal entity, and intellectual property rights.

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The modern social relations have been developing under the influence of scientific and technological progress. The level of technology in society affects all levels of national development. First of all, it influences the level of the economy as a whole. This fact determines the increased level of state regulation of relations in the sphere of innovation. In modern conditions, the regulation of innovation is a priority for the development of our state. This priority is reflected in government support for innovations.

Despite the economic prospects, innovations are capital investments with a high risk of the absence of the expected effect from the introduction of innovations into production. As a result, subjects of innovation are interested in such forms of their commercialization, which minimize possible risks of losses from investment in technology. One of such legal forms is the corporate innovation. The corporate innovation means the implementation of innovation through the creation or involvement into the business of legal entities that specialize in the manufacture of goods, the provision of services and the performance of works with the use of advanced technologies and practices, or innovations. In the applicable legislation of Ukraine, such legal entities are called technological parks, innovating corporations, scientific parks, etc. As of today, there is a need to bring all of them to some common denominator, that is, to develop unified legal approaches to the legal regulation of those subjects of innovation, which have the status of a legal entity. It should be noted that this problem has got its initial solution in draft laws. In particular, in Art. 14, Art. 17 of the draft Law of Ukraine on Support and Development of Innovation [1] there has been introduced such a «generic» concept as an innovation park that is divided into the following types: science park; technological park; industrial park; business association created for the R&D and innovation, the utilization of R&D and/or innovation capacity, material & technical base for commercializing R&D results, and for the creation and/or implementation of innovations. At the same

time, the UNIT.City Kharkiv innovation park has already existed. However, there are different structures under the same definition: some of them have the status of a legal entity, while others do not have it. Thus, although we appreciate the legislator's attempt to introduce a common conceptual denominator for all subjects of innovation, it should be noted that it is necessary to develop unified legal approaches specifically for legal entities in the researched field is very relevant in terms of both practice and theory.

The definition of legal entity allows separating its property from the property of the members and its obligations from the obligations of its members. Thus, all the risks of innovation are assumed by a legal entity that is an independent subject of entrepreneurial activity. In addition, the definition of legal entity allows technology parks to accumulate a significant amount of capital, which may not be available to an individual. Given the above, the chosen subject of research is relevant for modern society in terms of the interests of both the state in general and individuals in particular. The level of regulation of technology parks as main actors of innovation determines the level of investment in the economy of Ukraine by domestic and foreign investors. As a result, the regulation of technology parks affects the development of the economy of our country as a whole.

Today, all the world countries are trying to create the most effective innovation structures that would combine management, planning, financing and projecting activities in the field of innovation. The examples of such successful innovation structures in Ukraine are science parks (for example, Prykarpatskyi University Science Park, LLC) and technology parks (Institute of Single Crystals (Kharkiv), a state-owned R&D institution).

While considering the definitions of science park and technology park in this research, we look at how they operate in foreign countries. The well-known examples of innovating corporations are the science parks (Pentlands Science Park (Great Britain)), Thailand Science Park (Thailand), Kanagawa Science Park (Japan), Cambrid-

ge Science Park (USA), Technology Park Ljubljana Ltd (TPLj) (Slovenia); Parque Tecnológico de Andalucía SA (PTA) (Spain), Sophia Antipolis (France); the technology parks (Pardis Technology Park (Iran), Federal University of Rio de Janeiro (UFRJ) Technology Park (Brazil); the science and technology parks (Puspiptek (Indonesia), Technopark Gliwice (Poland), Daedeok Innopolis (Korea); the industrial clusters of science and technology parks (SIHC (China)); the innovation parks (Cheshire Innovation Park, St John's Innovation Park (Great Britain), Innovation Park at Penn State (USA)); and the technopoles (Portsmouth Technopole ((Great Britain), METU (METUTECH) (Turkey)).

Legal entities as subjects of legal relations have been researched by many well-known researchers, in particular, V. I. Borysova, V. A. Vasylieva, O. V. Dzera, O. R. Kibenko, V. M. Kravchuk, I. M. Kucherenko, I. V. Spasybo-Fateeva and others. The operation of innovating legal entities has been studied in the context of economic and legal issues (V. M. Butuzov, O. M. Vinnyk, S. V. Hlibko, A. I. Marushchak, etc.). Foreign researchers, in particular, Appel-Meulenbroek, T. A. Arentze, S. Bruno, Douglas S. Salvador, D. Durão, Oh Deog-Seong, J. Dzisah, H. Etzkowitz, P. Ian, Yeom Insup, G. D. Markman, Mc Carthy, W. K. B. Ng, and P. H. Phan have dealt with theoretical and practical aspects of innovation in innovation parks.

Therefore, for the mentioned aspect of the analysis of innovation in innovation parks being understudied, it is necessary to deepen research on evaluating the effectiveness of legal regulation of innovating legal entities.

A complex of general scholarly and special research methods has been used in the research.

The shortcomings of regulating their activities and prospects for the effective development of the economy of Ukraine and for the improvement of its investment attractiveness have been identified based on the analysis of many publications related to the peculiarities of technology and science parks as innovating legal entities, with the use of the methods of analysis and synthesis. The

classification methods have been employed for summarizing the applicable legislation of Ukraine and identifying gaps in the regulation of the status of technology parks, science parks, etc. The method of alternatives used in the study has made it possible to critically evaluate the provisions of regulatory and legal acts from the standpoint of regulating the status of technology parks and science parks as legal entities. The method of comparative studies has enabled us to identify the main indicators, according to which it is expedient to continue the transformation of the regulation of innovating legal entities in accordance with the standards established in the world community. At the same time, the comparative methods have allowed asserting the dispositive nature of establishing a system of innovating legal entities in individual states.

The research aims at studying the existing types and peculiarities of the regulation of innovating legal entities and outlining a single vector of their systemic legal regulation. To realize this goal, the authors have discussed the following questions: the system of technology parks as innovating legal entities in Ukraine and the peculiarities of the status of certain types of them; the problems related to the legal status of science parks as a special type of legal entities in the field of development and implementation of innovations; the main areas of legal regulation of science parks within Europe and Asia for verification of their consideration in the transformation of the status of science parks in Ukraine; the peculiarities of the legal regulation of technology parks in certain foreign countries for identifying the trends to be implemented in the national legal system.

PECULIARITIES OF THE LEGAL REGULATION OF TECHNOLOGY PARKS THAT HAVE THE STATUS OF LEGAL ENTITIES IN UKRAINE

A specific feature of the applicable legislation of Ukraine is the presence of a significant part of special regulations that govern certain aspects of

certain social relations. The specified circumstance also determines the peculiarity of the regulation in regulatory acts concerning the types of technology parks that exist in Ukraine. To establish their system, it is necessary to refer to various legislative documents, including both codified acts and special acts. The analysis of all these acts makes it possible to form both a system of active types of technology parks and general features of regulation of their activity.

The legal concept of technology park is given in Art. 1 of the Law of Ukraine on the Special Regime of Innovation at Technology Parks dated 07.16.1999 No. 991-XIV. This definition allows us to state that the specified legal entities operate with a specific purpose and do activities of a specific type and in a specific area. This is confirmed by Article 2 of the Regulations on the Procedure for the Creation and Operation of Technology Parks and Other Types of Innovating Entities, as approved by Resolution of the CMU No. 549 dated May 22, 1996, according to which the technology park as an innovating entity is created in any organizational and legal form and operates in a defined branch of activity and type of operation, which aims at the creation and implementation of science-intensive competitive products. Therefore, despite Art. 91 of the Civil Code of Ukraine (hereinafter referred to as the Civil Code of Ukraine, CCU), which declares the universal legal capacity of legal entities, the technology parks are characterized by exclusive legal capacity, which means the possibility of doing only those types of activities, which are established by law. According to V. M. Kravchuk, all types of activities done by organizations with exclusive legal capacity are characterized by the presence of public interest in them [2, 79]. O. Ya. Kurbatov, while defining the general concept of exclusive legal capacity, states that this is a lawful type of legal regulation, due to the fact that it is based on a general prohibition to organizations of all transactions, operations and types of activities, except for those explicitly allowed and only with a permission. That is, the transactions, operations and types of ac-

tivities they are authorized to do shall be established in the law [3, 7].

The exclusive legal capacity of technology parks implies the application of special mechanisms to the legal regulation of their status, among which, first of all, there are the specifics of acquiring the status of innovation infrastructure. After all, the status of technology park is not associated with the moment of its state registration as a legal entity, but with its entry into the register of innovating entities.

Article 4 of the Law of Ukraine on the Special Regime of Innovation at Technology Parks dated 16.07.1999 No. 991-XIV establishes that the basis for state registration of a technology park is its inclusion in the list of technology parks specified in the preamble of this Law. It is obvious that the given norm is not consistent with the procedure for the creation of legal entities of private law established by the law. The fact that the technology parks belong to such legal entities is evidenced by Article 2 of the Regulations on the Procedure for the Creation and Operation of Technology Parks and Other Types of Innovating Entities, according to which the technology park as an innovative structure is created in any organizational and legal form, and Article 6 that specifies that the innovating entities of type A (with the status of a legal entity) are created in accordance with the procedure established by the legislation for the relevant organizational forms of business entities (enterprise, association of enterprises, business associations, etc.). The analyzed legal norms indicate the absence of a doctrinal approach to the regulation of the civil and legal status of technology parks.

The exclusive legal capacity of technology parks is conditioned by special requirements regarding their statutory documents. Article 9 of the Regulations on the Procedure for the Creation and Operation of Technology Parks and Other Types of Innovating Entities provides for these requirements. Having analyzed it, we note that, in fact, the technology park project contains information that determines its legal status, and therefore has the characteristics of a statutory document. How-

ever, the legislation establishes that for the registration of a technology park, its statute (articles of incorporation) shall be submitted together with the project. It should be noted that certain information that, according to the Regulation, shall be contained in the project, is specified in the statute (articles of incorporation), as the main statutory document. In particular, it is about information on the members of the technology park, the system of governing bodies, etc. It is obvious that the norms of special legislation regarding the status of technology parks should be harmonized in order to eliminate the duplication of the same information in the two documents. After all, the technology park project should focus on the specifics of the innovation.

ORGANIZATIONAL AND LEGAL FORMS OF TECHNOLOGY PARKS ACCORDING TO THE APPLICABLE LEGISLATION OF UKRAINE

The applicable legislation of Ukraine in the field of regulation of innovating legal entities is quite ambiguous. If we analyze the existing regulations related to the topic of our study, we conclude that the legislator has not made a single foundation that would underlie the special provisions of all applicable laws in Ukraine. It is quite obvious that the framework for the regulation of such legal entities should be the Law of Ukraine on Innovation dated 07.04.2002 No. 40-IV. The first thing that immediately surprises us is the absence of general provisions in its regulations regarding the system of legal entities that specialize in innovation. Obviously, this law uses a certain terminology. It is about the concept of an innovating corporation. Article 1 of the aforementioned Law provides for the structure of an innovating corporation. Having analyzed this definition, we note that possible types of such legal entities are only briefly mentioned in parentheses. At the same time, Article 1 of the Law does not define the organizational and legal form of such legal entities in accordance with the provisions of the

Civil Code of Ukraine, which clearly establishes that private law legal entities are divided into corporations and institutions. Corporations may be entrepreneurial or non-entrepreneurial in nature. The Law of Ukraine on Innovation dated 07/04/2002 No. 40-IV does not contain clear provisions on the nature of legal entities, whether they are entrepreneurial or not; whether they may be created in the organizational and legal forms of business associations. A priori, it may be any organizational and legal form.

Moreover, given the maximum relevance of the recodification of the CCU, there is the question of the use of the term “enterprise”, which is inherent, in terms of a subject of legal relations, only in the Commercial Code of Ukraine. Also, there are problematic aspects of the use of the concept of innovating enterprise in the Law of Ukraine on Innovation dated 04.07.2002 No. 40-IV, since the norms of this law define the same concept in different ways. In particular, Article 16 of this Law defines “innovating enterprise” in a way different from the one given in Article 1 thereof.

The mentioned special regulatory act does not establish any provisions regarding the organizational and legal form of legal entities. This information, surprisingly, is contained only at the level of by-laws. In particular, the Regulations on the Procedure for the Creation and Operation of Technology Parks and Other Types of Innovating Entities, as approved by Resolution No. 549 of the CMU dated May 22, 1996, establishes that an innovating entity is a legal entity of any organizational and legal form incorporated in accordance with legislation.

It is necessary to outline the concept of organizational and legal form, which is doctrinal, as it is absent in the applicable legislation. In particular, in this regard, I.M. Kucherenko has stated that the organizational and legal form is characterized by a set of interconnected and legally established properties, which gives a reason to distinguish one type of legal entity from another in its visible manifestation [4, 18]. In our opinion, the interpretation of the organizational and legal form as a

set of legal parameters that determine the peculiarities of the legal status of a legal entity is preferable in the domestic doctrine. The CCU determines that the legal forms of legal entities are corporations and institutions, as well as other forms, as established by law. The legislator distinguishes specific organizational and legal forms of entrepreneurial corporations, non-entrepreneurial corporations, and institutions within the scope of the mentioned definitions.

Returning to the terminology in the field of corporate form of innovation, it is worth noting that the Law of Ukraine on Innovation dated 04.07.2002 No. 40-IV is the main core of innovation legislation and its norms shall contain general principles for this legal form of innovation. It seems that in the norms of this act, it would be appropriate to foresee the possibility of creating technology parks or science parks in the organizational and legal forms of legal entities of private law, as provided for by the CCU, while the specifics of their legal regulation should be established by special regulations. Currently, it seems the Laws of Ukraine on Innovation dated 04.07.2002 No. 40-IV, on the Special Regime of Innovation at Technological Parks dated 16.07.1999 No. 991-XIV, on Science Parks dated 25.06.2009 No. 1563-VI each live its own separate life. There is no systematic legal regulation under such conditions, accordingly, we cannot talk about any adequate law enforcement.

PECULIARITIES OF THE LEGAL REGULATION OF SCIENCE PARKS

Among the legal entities involved in innovation, as well as among any legal entities, science parks have a special place, since they appeared in domestic legislation as late as in 2010. The system of innovating infrastructure has been currently being formed, which necessitates the need for in-depth doctrinal analysis of the theoretical and practical aspects of the activity of innovating legal entities. The analysis of the list of science parks that have been already created with the

permission of the Ministry of Education and Science of Ukraine has shown that, in practice, the founders usually choose the organizational and legal form of a limited liability company (hereinafter, LLC). Also, in practice, a situation when the statutory documents of such legal entities contain the phrase “science park” and, at the same time, do not indicate the organizational and legal forms still possible. In some cases, the name of legal entity contains an indication of belonging to science park. The norms of the Law of Ukraine on Science Parks dated 06/25/2009 No. 1563-VI, as interpreted by representatives of the Ministry of Education and Science during the period when the last regulatory act came into force, imply that it is necessary to take into account the requirements of the law, which are established for the science parks. It may be an enterprise, a business corporation, and an association of business corporations [5].

In this regard, it should be noted that the applicable Law of Ukraine on Science Parks dated 25.06.2009 No. 1563-VI does not mention that the science parks shall be created in one of the organizational and legal forms of business corporations as foreseen in the legislation or in any other lawful organizational and legal forms, therefore there are no unambiguous reasons for incorporation of science parks in the form of business associations. At the same time, in relation to other innovating legal entities, the legislation directly indicates their creation in certain organizational and legal forms, as specified in the legislation. While Article 1 of the Law of Ukraine on the Special Regime of Innovation at Technological Parks dated 16.07.1999 No. 991-XIV, in the definition of technology park, does not mention this information, the Regulations on the Procedure for the Creation and Operation of Technology Parks and Other Types of Innovating Entities, as approved by Resolution No. 549 of the CMU dated May 22, 1996, establishes that an innovating entity is a legal entity of any organizational and legal form incorporated in accordance with the applicable legislation. However, the legislation

on the technology parks does not apply to the science parks whose legal status is regulated by the special Law of Ukraine on Science Parks dated 25.06.2009 No. 1563-VI, as well as by the Procedure for approval of the decision on the creation of a science park, as approved by Resolution of the CMU No. 93 dated 03.02. 2010. Therefore, the legislation does not contain clear requirements for the organizational and legal form of science parks.

In this regard, I. V. Spasybo-Fateeva, while studying the regulation of the innovating legal entities, has noted that the economic concepts used mostly by researchers of innovation-related problems are not projected into the plane of law, and therefore unclear definitions of calls-technologies, clusters, venture companies, parks, etc. currently remain a sort oftrendy slang [6, 227].

Since higher education institutions are responsible for combining education, research, and innovation in the educational process, they are entitled to form various types of innovating entities on their base, including science and technology parks [7, 266]. Science park is an effective way of realizing the will of founders of a higher education institution of the 4th accreditation level or an R&D institute in order to ensure self-financing. The status of a legal entity given to science parks is a way to separate the property of HEIs of the IV accreditation level and R&D institutes from that of legal entities created by them and to reduce the risks associated with the membership of these entities in science parks.

The definition of a science park as a legal entity that is incorporated through contributions of the founders for the organization, coordination, and control of the implementation of innovation projects allows stating that the founders of the science park have the right to participate in it. This means that they are described by the characteristics inherent in corporations. At the same time, the purpose of the science park, as defined in Article 1, does not allow us to directly assume its entrepreneurial nature. To solve this issue, a comprehensive analysis of the special law shall be made. The purpose of creating a science park is

specified in Article 3 of the Law of Ukraine on Science Parks dated 25.06.2009 No. 1563-VI. According to it, they are created for the commercialization of R&D results and their sale in domestic and foreign markets. Undoubtedly, the given detail provides additional insight into the ultimate goal of science parks, which is the commercialization of R&D results. However, we cannot draw a clear conclusion on this basis.

Having analyzed Article 9 of the Law of Ukraine on Science Parks dated 25.06.2009 No. 1563-VI, we may conclude that the founders of science park have the right to have a share in the profit from its activities in the manner established by the statute of the science park. Thus, we may state that the members (founders) of science park have a full range of corporate rights, including property rights, which include the right to have a share in the profit from the activities of the park [8, 90]. Such rights are based on the private interests of its founders, which aim at gaining material wealth, and have been absolutely reasonably interpreted by I. V. Venediktova as “proto-law” [9, 97]. Therefore, there is every reason to state that science parks belong to entrepreneurial legal entities under the private law.

In the scholarly research literature, there are proposals for the transformation of science parks into non-entrepreneurial organizations [10]. In this regard, it should be noted that the creation of a non-entrepreneurial organization involves the satisfaction of a certain kind of non-property needs of the members. As for the innovating legal entities, the very nature of innovations in the form of newly created and/or improved competitive technologies, goods or services, as well as organizational and technical solutions of production, administrative, commercial or other nature, which significantly improve the structure and quality of manufacture and/or the social sphere (Article 1 of the Law of Ukraine on Innovation No. 40-IV dated 04.07.2002), predetermines the natural focus of such activities on the commercialization of the results, otherwise such activities are meaningless. Since the commercialization of the results

manifests itself, first of all, in the profit and the interest of the members in having a share in it, it seems appropriate to state that the entrepreneurial nature is immanently inherent in science parks.

At the same time, certain features of science parks in terms of the scope of their operation have a special character. In particular, the legal nature of science parks implies the priority of public interests, as declared in Article 4 of the Law of Ukraine on Science Parks No. 1563-VI dated June 25, 2009, which determines the functions of science parks.

THE TRIPLE HELIX MODEL FOR REALIZING THE INNOVATION CAPACITY OF SCIENCE PARKS

The global community emphasizes the priority of public interests, which determines the specifics of the status of science parks, both at the regulative and doctrinal levels. The main trends in the legal regulation of innovating legal entities are of great importance for the Ukrainian legal system.

There are many forms of science parks, which provide a wide range of facilities and services to universities, research institutes and companies at various stages of business development [11]. The triple helix model is the form of increased requirements for the creation and activity of science parks, as well as for the level of control over them by government. In particular, in practice, this model conditions the peculiarities of science parks, which have been described above: exclusive legal capacity, the necessity of permit for the creation, specific requirements for the composition of the founders and for corporate governance of the park; peculiarities of the dissolution of the park in terms of the contributions made by the higher education institution / R&D institute to the scientific park.

Most studies of the triple helix model (government – science – industry) in Ukraine are based on several double helix models: cooperation between universities and industry or government and industry, which are believed to more accurately represent the situation in the country as

compared with the full-fledged triad models of interaction between universities, industry, and government [12]. The triple helix model contains three main elements: a more prominent role for universities in innovation; trend towards cooperation of the three spheres, where innovation policy is the result of interaction rather than government orders; in addition to their functions, these spheres may assume the role of each other [13].

We may reasonably state that higher education institutions and R&D institutes entering the entrepreneurial level (this is actually the strategic policy of advanced economies regarding the further development of such institutions) determine the further development of science parks as entrepreneurial (business) entities, which is based on commercializing innovations and making profit for its subsequent distribution among park members.

PECULIARITIES OF THE LEGAL REGULATION OF SCIENCE PARKS AND TECHNOLOGY PARKS IN SOME COUNTRIES

Unlike in foreign countries, the applicable legislation in Ukraine, as already mentioned above, clearly distinguishes the science parks from the technological parks with the status of a legal entity. Moreover, for the science parks, it establishes imperative requirements that are absent for the technology parks. In the domestic legislation, the science parks were introduced in 2010 as a specialized vehicle for HEIs and/or R&D institutes for entering a competitive business market.

Despite the absence of a clear distinction between the science parks and the technology parks, in the foreign doctrine, nevertheless, there is a trend towards creating science parks on the basis of academic research institutions. In particular, among the features of the science parks there are noted the following ones: (1) connections with academic institutions; (2) support for the launch and incubation of technology programs; (3) promotion of technology and business knowledge transfer (4); ownership-based initiatives; and (5) their sustainable nature [14].

The foreign practice is marked by the fact that there is no single general theory of the science park, since the origins and consequences of parks vary depending on their economic geography, political and social context, and economic systems [15]. Thus, the world community uses more diverse definitions of it. For example, the International Association of Science Parks (IASP) has developed the concept of science park as an institutional structure that is proactively created and managed by professionals; has formal and operational links with universities or other higher education institutions or large research centers; is designed to encourage the formation and growth of knowledge-based industries or firms with a high added value, which are usually located on the territory of the enterprise; has a permanent management team that is actively involved in facilitating the transfer of technology and business skills to tenant organizations. The definition of science park by the University of Cambridge, Great Britain (Cambridge Science Park) also emphasizes the research nature of the park, as it is a R&D center that has strong ties with the neighboring University of Cambridge [16]. The UK Science Parks Association definition of science park (also referred to as a “university research park”, “technology park”, “technopark”, “technopole” or “science and technology park (STP)”) is a property-based facility that houses and facilitates the growth of tenant firms that are linked to the university (or government and private research bodies) based on proximity, ownership and/or management [17]. As one can see, international and industry structures also proceed from the principle of creating science parks based on the involvement of R&D institutions.

Innovating infrastructure in many foreign countries is mainly formed by science, technology, research and innovation parks, and technopoles. Despite the lack of a single concept of innovation parks, the foreign practice has developed the following models:

1) the Science Park:

- ◆ “classic science park” whose mission is to promote innovation and research and to train quali-

fied personnel for R&D (Pentlands Science Park, Virtual Science Park, Wolverhampton Science Park, West of Scotland Science Park (Great Britain)), Thailand Science Park (TSP) (Thailand), Cambridge Science Park (USA);

In particular, the TSP is administered by the National Science and Technology Development Agency (NSTDA) and is a way to promote tripartite collaboration between industry, academia and government (the triple helix model);

- ◆ “science park” that operates on a public-private partnership model, including joint investment (approximately one-third of its investments come from public funds, and the rest from private funding) and co-management (including local entities integrated into the system) (Kanagawa Science Park (Japan) [18];
- ◆ “science park” that operates on the basis of leading educational institutions, provides an attractive, well-equipped environment for the development of business based on knowledge and technology, provides office and industrial premises and access to research and resources (University (University of Warwick Science Park Limited (UWSP) (Great Britain)), Yale University Science Park (USA), Science Park Kassel (Germany) that is an integral part of Kassel University, Utrecht Science Park (Netherlands) with Utrecht University as principal founder.

2) The Technology Park:

- ◆ “classic technology park”, a park that has a quality infrastructure for production and R&D and technological capabilities, which facilitate access to new digital technologies for integrated high-tech companies (Antrim Technology Park, Cranfield Technology Park, Lee Valley Technopark, Plassey, Staffordshire Technology Park (Great Britain)); Technology Park Ljubljana Ltd (TPLj) (Slovenia); Parque Tecnológico de Andalucía SA (PTA) (Spain), Sophia Antipolis (France); Studsvik Tech Park (Switzerland); Kista Science City (Sweden);
- ◆ “technology park”, a park uniting high-tech companies covering many industries. (Pardis

Technology Park (Islamic Republic of Iran). In particular, this technology park operates thanks to public funding that is used to build infrastructure and urban facilities, to pay for and to maintain the central complex. The private sector provides funding that is used, for example, construction of research centers and land purchase;

- ◆ “technology park” that has a differentiated institutional structure with founding partners (universities, government and municipal bodies, etc.), interaction with which contributes to R&D, economic and social development capable of intensifying scholarly research activities, introducing innovations, and transferring technologies (Federal University of Rio de Janeiro (UFRJ) Technology Park (Brazil)).

3) The hybrid model:

- ◆ “science and technology park” as a center for quality research, development and technology innovation (Aberdeen Science & Technology Parks, Nottingham Science and Technology Park, Westlakes Science & Technology Park ((Great Britain), Columbia’s Biomedical Science and Technology Research Park (USA); Puspiptek (Indonesia)).

In particular, Puspiptek (Indonesia) is a National Science and Technology Park funded by the central government and managed by the Ministry of Research, Technology, and Higher Education of Indonesia. It operates as a hub (center) of national and regional innovation centers, which brings together government, universities, research and development, high-tech industrial centers, and business or entrepreneurs in the area [18];

- ◆ “science and technology park” as a modern center for supporting entrepreneurship (Technopark Gliwice (Poland)).

There are many modern European models of technology parks. In particular, science and technology park, as defined by ESCAP, is a science and technology park that can be developed by the private sector; if the government or the public sector finances the development of the park or provides other incentives such as tax exemptions or tax reductions, the science and technology

park shall provide social benefits, such as advanced research and development, which subsequently contribute to its national NTI and/or economic development [18]. As one can see, foreign countries do not all have technology parks based on research institutions and R&D structures. Although these parks have been in operation for many years, there is no universally accepted definition in the scholarly research literature that notes their positive effect on both the region and the tenant companies, with the main impact being closer interaction with universities [19]. In particular, technology parks in developing countries, such as Brazil, promote science, technology, and innovation through their components such as high-tech companies, universities, and incubators [20];

- ◆ “incubator” or “industrial cluster of science and technology parks” that manages technology parks, following the principle of “government management and market operations” and the theories of concentric zone and industrial gradient, integrates its resources in the development, planning, construction, operation, and management of real estate, as well as in industrial investments. For example, SIHC (China) has successfully developed and currently been governing six technology parks;

- ◆ “innovation cluster” that creates a business-friendly environment with a global network and support for industry and research circles and scientific cooperation and strengthens the managerial abilities of future entrepreneurs (Daedeok Innopolis (Korea)).

In particular, Daedeok Innopolis science and technology park (Korea) has the three stages of development: the science park (this science park model contains the three main functions: R&D, business and infrastructure, business incubation activities are almost not supported at this stage); the technopole (at this stage, higher education institutions and research institutes actively support business incubation activities); and the regional innovation cluster (a place where efficiently and conveniently doing business and R&D) [21].

4) “Innovation park” is a center that supports both emerging and existing enterprises (Cheshire Innovation Park, St John’s Innovation Park (Great Britain); Innovation Park at Penn State (USA)).

5) “Technopole” based on the hybrid model:

- ◆ “science and business park” specially designed for the development of emerging, growing, and existing companies (Edinburg Technopole, Portsmouth Technopole ((Great Britain));

In particular, Portsmouth Technopole (Great Britain) operates as a private LLC (private limited company);

- ◆ “research park” that is established within the campus and aims at promoting the development of companies implementing significant R&D projects for the production of high-tech products and services, benefiting from research opportunities and information fund (METU Technopole (METUTECH), technopole of the Middle East Technical University (Turkey));

Technopoles may include the following organizational and structural units: technology parks, incubators, etc. Thus, technopole, based on the considered model, is not a separate type of legal entity. Conventionally, it is a technological complex that includes separate legal entities: technology parks, incubators, and laboratories. From a legal point of view, it is a contractual association of legal entities to fulfill a common coordinated goal. There is an interesting example of a technopole model created as a private company that provides office space and business incubator services (Technopolis Oyj (Finland));

It should be noted that the science parks and technology parks in Europe and Asia do not have a single organizational form and form of ownership. For instance in Poland, Adam Mickiewicz University Foundation – Poznan Science and Technology Park is a non-commercial organization; Joensuu Science Park (Joensuu Science Park – JSP) (Finland) is incorporated as an independent nonprofit organization; University of Warwick Science Park Limited (UWSP) (Great Britain) and Technology Park Ljubljana Ltd (TPLj)

(Slovenia) are registered as a private limited liability company governed by the public law as a nonprofit organization; Ideon Science Park (ISP) (Sweden) that is among the leaders of innovation in NUTS 2 is governed by limited liability company *Ideon AB* that manages the science and technology park; Parque Tecnológico de Andalucía SA (PTA) in Spain is created as a joint stock company (Sociedad Anonymous) [22]. Wei Keat Benny Ng, while comparing twelve science parks in the Netherlands, have noted that they differ in technology sectors, ownership model (i.e., university-owned, private and/or state-owned) and size of each site [23].

The review of the world dominant models of innovating legal entities has shown that the largest number of science and technology parks of various models is concentrated in Great Britain and the USA. The classical model of a science and technology park whose mission is to promote innovation and research, to train qualified personnel for R&D, and to develop a capacity for facilitating access to new digital technologies for high-tech companies has been widespread in Great Britain, Thailand, Slovenia, Spain, France, Switzerland, Sweden, the USA, etc. At the same time, the “British-American” model of science park based on leading educational institutions, which combines the properties of science parks and technology parks in terms of the connection with academic R&D and educational institutions, has been used in Germany and the Netherlands, as well. In Brazil, the technology park is closely tied with the leading educational institutions, and this model has resulted in the introduction of innovations and the transfer of technologies. The science or technology park model that does not have such ties and focuses the activities of such legal entities on the development and implementation of investments from the public and private sectors brings together high-tech companies from many industries (Japan, Iran).

The above conclusion testifies to dispositive approaches of the legislation of different countries with respect to the differences between sci-

ence parks and technology parks and their connection to R&D or educational institutions. In principle, from the standpoint of freedom of entrepreneurial activity, this approach is optimal for potential founders and investors of such legal entities. At the same time, if we proceed from the triple helix model in the regulation of the activities of innovating legal entities (government – science – industry), which has been analyzed above and provides for the increased attention of the state to this type of legal entities, special legal regulation of those of them, which are associated with academic institutions also seems to be justified. This factor does not have such an importance for foreign countries, where educational and research institutions are autonomous and competitive in the market of educational and research services and operate on the basis of self-financing. In Ukraine, the adoption of the special Law of Ukraine on Science Parks and the special requirements for such entities, which are significantly different from those for the technology parks, is caused by the fact that domestic R&D and educational institutions are at the initial stage of the transition to an autonomous competitive status in the market of scientific and educational services. Thus, the special legal regulation of certain types of innovating legal entities may be conditioned by the peculiarities of the legal system, economy, and social relations within the state.

Thus, having analyzed the applicable legislation of Ukraine, we conclude that it lacks a single vector of the regulation of legal entities in the innovation sphere. If we compare the provisions of the analyzed laws of Ukraine, we see that each of them exists independently of the others, and therefore, in our country, there is no single legislative vision for regulating the status of legal entities specializing in innovation. There are used different concepts such as innovating enterprise/corporation, technology park, science park, etc. At the same time, the application of quantitative criteria to innovating enterprises/corporations in terms of the quantities of products or services provided or manufactured by a legal entity with

the use of innovations is perceived critically. In this regard, it seems advisable, while studying and assessing the mentioned legal entities, to use such a qualifying criterion as the presence of an innovative project in them. In fact, this is precisely the document that is the legal basis for the implementation of innovations and special status of an innovating entity.

The peculiarity of the regulation of technology parks in Ukraine is that the norms of the Law on the Special Regime of Innovation at Technology Parks does not contain specific provisions regarding the nature of their activity. This issue is regulated by bylaws.

In the system of the legal entities studied in this research, the science parks occupy a special place due to the specificity of the subject composition of the founders, among which there shall be higher educational institutions of a certain degree of accreditation and/or R&D institutes. Thus, the science parks are a legal way to ensure the autonomy of educational institutions and R&D institutes. Like in the case of the technology parks, the applicable legislation does not contain uniform approaches to their regulation, since it does not define their organizational and legal form, which makes it difficult to understand the legal nature of such parks.

The study of innovating legal entities both in Ukraine and in foreign countries has made it possible to establish a significant influence of public interest on the procedure for their creation and activities, which is projected on: their exclusive legal capacity; a special procedure for their creation and granting to them not only the status of a legal entity, but also the status of an innovating entity; the necessity of permit for the creation of some types (scientific parks); special requirements for the composition of the founders; special features of contributions to the authorized capital; and the presence of a special document of a constitutive nature, which is an innovation project.

The analyzed world experience has shown the dominant role of the so-called triple helix model (government – science – industry) in regulating the activities of innovating legal entities. The trip-

le helix model is projected onto the science parks in the form of increased requirements for their creation and activity, as well as onto the level of government control over them.

The comparative analysis of the foreign doctrine and practice has allowed us to conclude that there are dispositive approaches of the legislation of different countries with respect to the differences between the science parks and the technolo-

gy parks and their connection to R&D or educational institutions. At the same time, if we proceed from the triple helix model (government – science – industry) in the regulation of the innovating legal entities, which causes the increased attention of the government towards this type of legal entities, special legal regulation of those of them, which are associated with academic institutions, also seems to be justified.

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КОРПОРАТИВНА ФОРМА СУБ'ЄКТІВ ІННОВАЦІЙНОЇ ДІЯЛЬНОСТІ В УКРАЇНІ

Вступ. Ризиковість інноваційної діяльності має наслідком потребу максимально зменшити можливі втрати власне під час реалізації інновацій. Форма юридичної особи є засобом досягнення цієї мети. Вона дозволяє відокремити зобов'язання юридичної особи від зобов'язань її учасників.

Проблематика. Законодавство України та зарубіжних держав містить численні форми юридичних осіб у сфері інноваційної діяльності, тому існує потреба їх певної систематизації та впорядкування.

Мета. Сформувати єдиний вектор системного правового регулювання юридичних осіб у сфері інновацій на основі аналізу вітчизняної та зарубіжної доктрини й законодавства.

Матеріали й методи. У процесі дослідження використано комплекс загально-наукових та спеціальних методів. Матеріалами для дослідження слугували публікації вітчизняних та зарубіжних учених, чинне законодавство України та зарубіжних держав.

Результати. Компаративістський аналіз доктрини та практики зарубіжних держав дозволив зробити висновок про диспозитивні підходи законодавства різних держав щодо відмінностей між науковими парками та технопарками і прив'язок їх до наукових чи навчальних установ. Однак, системне правове регулювання таких юридичних осіб потребує застосування загального їх поняття, яке буде основою для єдиних підходів щодо цього питання.

Висновки. Публічний інтерес суттєво впливає на досліджувані юридичні особи і визначає: виключну їх правоздатність, особливий порядок їх створення, надання спеціального статусу інноваційної структури, спеціальні вимоги до складу засновників, особливості вкладів до статутного капіталу, наявність спеціального документа – інноваційного проекту.

Досвід світових держав свідчить про домінуючу роль концепції «потрійної спіралі» у регулюванні діяльності інноваційних юридичних осіб («держава—наука—промисловість»).

Ключові слова: інновація, технологічний парк, науковий парк, юридична особа, майнові права інтелектуальної власності.