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DEVELOPMENT OF SOCIAL ENTERPRISES AS A WAY OF MITIGATING THE SOCIAL SITUATION IN THE DONBASS

Significant losses of economic potential and the human capital in the Donbass are the consequences of political crisis and military opposition in the East of Ukraine. Modernization of economy and restoration of social stability in the region after the end of the antiterrorists operation will require elaborating of special measures of economic and social policies. In doing that, it is necessary to agree with opinion of Jean-Paul Fitoussi and Joseph Stiglitz that “the design of good policies can’t be grounded on the artificial separation between social policies and macroeconomic ones...” [1, p. 15]. The economic goals of the measures for the Donbass’ renaissance and economic restructuring will connect directly to increasing of competitiveness and attractiveness of the region for investors and high quality labour force. However, increasing of the regions competitiveness and attractiveness means improving the quality of life of its inhabitants. In turn, the community's quality of life also depends on the level of integration into employment and social inclusion of population of the disadvantaged communities. In order to tackle with the unemployment and social disintegration in the Donbass region it would be useful to put into effect a comparatively new for Ukraine social innovation that engages additional resource – social initiative of residents of the localities and groups of interest. This social innovation is social entrepreneurship and social enterprises that broadly recognized as a new approach for mitigating of unemployment, poverty, lack of public finances for social services, especially in former socialist countries [see, 2 – 7].

The potential contribution of social enterprises to work integration, job creation, and service delivery remains largely unrealized in Ukraine as well as in other CIS countries, particularly in relation to disadvantaged groups including the long-term unemployed, ex-criminals, people with disabilities, internally displaced persons and ethnic minorities [6, p. 6]. The situation in the Donbass is worse due to closure or bad operating of many enterprises, especially of small ones, and absence of public funding for so-called "budget" organizations that is shrinking the demand on production and services of SMEs. One have to take in account that the growth potential of SMEs in the region, especially in coalminers’ settlements has been greatly underused even in peacetime [7, p. 120 - 124]. Thus, the niche for development of social enterprises in the region is considerable. On the other hand, a significant opportunity for the development of social enterprises in

the Donbass confirmed by activation of the volunteer movement on both sides of the military confrontation there. Moreover, new approaches like an encouraging of social enterprises are needed to tackle major social issues during the declared reforms of social security in Ukraine, “... most especially in the presence of the systematic retreat of the governments from the provision of public goods in the face of new political ideologies that stress citizens’ self-sufficiency and give primacy to market-driven models of welfare” [8, p. 1].

The phenomenon of social enterprise / entrepreneurship emerged long before its theoretical generalization as a practical activity due to development of the cooperatives movement and evolution of the third sector (NGOs) towards commercialization and involvement into public service provision, as well as in rare cases in result of spin-off of social activity and related assets from business corporations. The concept of social enterprises have been widely discussed in academic circles and literature mainly in the OECD countries since the early 90s of the last century [9]. Since then, the social enterprises have found strong enough recognition in academic and political circles, reflected in the curricula of universities and business schools, entrenched in the legislation of individual countries and in the regulations of the European Union, as well as appropriate public agencies for support this business have been created. Various private foundations have set up training and support programmes for social enterprises or social entrepreneurs. Moreover, there were research centres for social enterprises initiated in many countries and international ones under umbrellas of the OECD office (Centre for Entrepreneurship, SMEs and Local Development) and European Commission (the EMES European Research Network in 1996. Formally established as a non-profit association (ASBL under Belgian law) in 2002 and named after its first research program, on “the emergence of social enterprises in Europe” (1996-2000), EMES was originally composed of European university research centers and individual researchers. After many years of collaborative research and projects jointly conducted with researchers from other regions, EMES has decided in 2013 to open its membership to researchers from around the world¹). In 2001 leading Latin-American business schools and the Harvard Business School established the Social Enterprise Knowledge Network (SEKN) [9].

¹ See: <http://emes.net/who-we-are/>

The clusters of business entities and persons registered as social enterprises or social entrepreneurs have been referring in official documents, analytical reports, academic papers and reflecting the statistics of different countries as a separate economic sector under the name: Social Economy (European Union, Francophone Canada), Solidarity Economy (Latin America), People's Economy (Pacific Asia), Associative Movements (Muslim countries), Civil Society Economy (South Africa), and Community Economic Development (Australia, Anglophone Canada, New Zealand, USA).

Now the concepts of social economy, social entrepreneurship and social enterprise are attracting many scholars and policy makers in wide range of societal sciences (sociology, political studies, economics, and management) which are showing a clear research interest more than a decade later in order to address to modern social challenges. Among them are C. Borzaga, J. Defourny, L. Favreau, J. Hausner, M. Huysentruyt, G. Galera, A. Kaderabkova, J.-L. Laville, M. Mendell, F. Moulaert, R. Nogales, M. Nyssens, V. Pestoff, E. Rudyk, R. Spear, and others. The research activities were concentrated on such topics as reasons for emerging and evolution of the social economy (SE) as well as its role and concrete areas for support of socio-economic sustainable development [6; 9 – 11], legal, financial and organizational issues of diverse legal forms of SE subjects functioning [10; 13 – 15]. Recently in publications devoted to the SE topic, more clear emphasis is made on connection of social enterprises and entrepreneurship with innovation activity [3; 13 – 16].

In last decade, the topic of social entrepreneurship becomes more common in public life and scientific research in Ukraine. A significant contribution to the promotion social entrepreneurship in Ukraine make the Social Enterprise Support Center set up in October 2010 at the SESP Association¹, and the Resource Center "Social Initiative" created in September 2012². These Centers were founded under the joint initiative of the British Council in Ukraine, East Europe Foundation, PricewaterhouseCoopers in Ukraine, Erste Bank and the International Fund "Renaissance" (the project "Development of social entrepreneurship in Ukraine"). However, the publications on the web sites of the Centers as well as in special literature on economics and sociology are mostly describing practical examples of social enterprises in the country and Western experience of social economy development, as well as some training materials on the topic. A rare exception are publications [17 – 19] that attempted to generalize the theoretical foundations of the concept of the social economy in relation to the Ukrainian realities as well as to define measures to creating institutional and eco-

nomical environment friendly for social enterprise development in the country [20 – 23].

The aim of the paper is to investigate the European experience of social enterprises disseminating, i.e. the definition of social enterprises, their legal forms, forms of social enterprises support, as well as to explore how this experience could be applied in Ukraine, especially in the Donbas region.

The development of social enterprises and corporate social responsibility are the constituent parts of such a concept as social entrepreneurship, that "...blurs traditional boundaries between institutional sectors, public and private, types of innovations, and their creators and users" [3]. Under that definition, the entrepreneurs' activity addressed social issues in which profits serves as a tool to achieve this goal is understood [5]. More broad definition gives the publication of the Secretariat of the OECD Centre for Entrepreneurship, SMEs and Local Development: "Social entrepreneurship – a type of entrepreneurship that aims to provide innovative solutions to unsolved social problems and challenges. It often goes hand-in-hand with social innovation processes. Social entrepreneurs organise themselves across a wide spectrum of organisations which have an entrepreneurial approach and whose primary mission is to tackle social problems and generate radical or more limited social changes. Social entrepreneurship is therefore about solving social problems rather than exploiting market opportunities in order to maximise profits" [14, p. 222].

In Europe, despite the absence of universal and indisputable definition of the social enterprise [9; 14], this concept has been increasingly using to identify an alternative way of doing independent business, which occurs when an enterprise created in order to pursue primarily social aims while simultaneously carrying out commercial activities. Thus, a social enterprise differs from the phenomenon called corporate social responsibility (CSR) because of the priority goals pursued by the owners or creators of the company. In the case of CSR, social outcomes are secondary, while social enterprises resorting to commercial activity primarily to ensure financial stability for social activities.

The European Commission gives the term "social enterprise" the following meaning: "an operator in the social economy whose main objective is to have a social impact rather than make a profit for their owners or shareholders. It operates by providing goods and services for the market in an entrepreneurial and innovative fashion and uses its profits primarily to achieve social objectives. It is managed in an open and responsible manner and, in particular, involves employees, consumers and stakeholders affected by its commercial activities" [24].

Instead of seeking "an elegant short definition", the EMES European Research Network conceptual approach of social enterprise's definition preferred

¹ <http://sesp.org.ua/web/sesp/sesp-EN.nsf/0/B3F7CAF10DA9AC2257911005076A8>

² <http://socialbusiness.in.ua/>

from the outset the selection of nine indicators into three subsets (dimensions):

(1) the economic and entrepreneurial dimensions:

- a continuous activity producing goods and/or selling services;
- a significant level of economic risk;
- a minimum amount of paid work;

(2) the social dimensions:

- an explicit aim to benefit the community;
- an initiative launched by a group of citizens or civil society organizations;
- a limited profit distribution: the primacy of the social aim is reflected in a constraint on the distribution of profits;

(3) the participatory governance:

- a high degree of autonomy;
- a decision-making power not based on capital ownership;
- a participatory nature, which involves various parties affected by the activity [15, pp. 44-46].

The European Economic and Social Committee share this position: “The EESC understands that a clear definition is needed so that efforts can be focused, but rather than a definition, proposes a description based on shared characteristics such as:

- having *primarily social objectives* as opposed to profit objectives, producing social benefits that serve the general public or its members;

- being primarily not-for-profit, *with surpluses principally being reinvested* and not being distributed to private shareholders or owners;

- having a *variety of legal forms and models*: e.g. cooperatives, mutuals, voluntary associations, foundations, profit or non-profit companies; often combining different legal forms and sometimes changing form according to their needs;

- being economic operators that *produce goods and services* (often of general interest), often with a strong element of social innovation;

- operating as *independent entities*, with a strong element of *participation* and *co-decision* (staff, users, members), *governance and democracy* (either representative or open);

- often stemming from or being associated with a *civil society organization*” [5, p.2].

Nevertheless, how term “social enterprise” is defined, it comprises such legal forms of enterprises as cooperatives, associations, foundations, mutual benefit and voluntary organizations and charities [25]. Despite their diversity, social enterprises provide social services and contribute to integration unemployed and disabled people to work (e.g. training and integration of unemployed persons) thus assisting in the development of disadvantaged areas (especially remote rural and economically distressed areas).

While empirical evidence shows that social entrepreneurship is growing in many countries, measuring

it – like measuring the social economy, the third sector and the non-profit sector – is difficult. This is due not only to the variety of the entities belonging to the field, but also to the fact that these entities vary according to the geographical context and that countries recognise social entrepreneurship differently [14, p. 187]. According to web site of European Commission on 10/06/2015, there are 2 million social economy enterprises in Europe, representing 10% of all businesses in the EU. More than 11 million people – about 6% of the EU’s employees – work for social economy enterprises. They have different legal forms and various objectives ranging from agriculture and banking to provision of employment and sheltered workshops¹.

The role of social enterprises in spurring innovation, especially social ones has been recognised and reflected in strategic document of European Commission, launched in 2011 and named “Social Business Initiative. Creating a favourable climate for social enterprises, key stakeholders in the social economy and innovation” where is declared, in order to promote a highly competitive social market economy, the Commission “...has placed the social economy and social innovation at the heart of its concerns” [24, p.2]. Later the European Economic and Social Committee (EESC) has clarified the main actions of the Initiative: improving access to funding; increasing visibility of social entrepreneurship; improving the legal environment. To further, unlock the potential of this sector, the EESC calls for a supportive environment for social enterprises and for their better integration into all EU policies. In doing that partnerships with regional and local authorities, as well as social entrepreneurs themselves will play an important role [26].

The experience of the European Union, US and other OECD countries shows that social enterprises perform important functions for socio-economic development through:

- contribute to the development of local economy and society, offering certain opportunities for job creation and new forms of entrepreneurship and employment;

- help overcome social isolation (due to their possible activities for employment of handicapped or with mental disabilities people; those who been unemployed for a long time; former criminals and others);

- stepping up participation and voluntary work of citizens, strengthening thus the unity of the community;

- contribute to the development of a wide range of social services that are necessary for local society, but that does not of interest for business as usual (low-profit, activity connected to significant costs for personnel special training so on);

¹ http://ec.europa.eu/growth/smes/promoting-entrepreneurship/we-work-for/social-economy/index_en.htm

- reduce the burden on local budgets in solving social problems;
- improving the structure of social programs in the region.

By fostering of citizens' self-organization and supporting social enterprises whose activities are aimed at solving issues of communities, the local authority contributes to employment as well as self-employment, allows to diversify the process of social services providing to the inhabitants, strengthening integrity of local societies and social capital, thus significantly reduces the level of social tension. This answers not only to a criterion of social inequality reducing, but also to the aim of decreasing possible local conflicts and increasing social safety.

Another aspect is related to the fact that, by improving the level of work inclusion through support of social enterprises, the local government has the chance to divert resources to other activities or projects, which in the opposite case would be directed on social services delivering in general or on improving the living conditions of certain disadvantaged groups of inhabitants in the community.

Contemporary Ukrainian legislation does not provide a definition of social enterprise and does not include any specific normative acts regulating the activities of such enterprises. However, there are elements of Ukrainian law, which provide certain grounds for development of social enterprise (see [6, pp. 161 – 162]). For instance, enterprises of citizens' unions can be formed in accordance with Article 112 of the Commercial Code of Ukraine and with Article 20 of the Law on Citizens' Unions for the realization of economic activities with the purpose of fulfilling their statutory goals. Non-governmental organizations of disabled people, set up according to the Law on Principles of Social Protection of Disabled people in Ukraine can have commercial and non-commercial activities. An important element contained in Ukrainian law is that the state, territorial centres and the public have the opportunity to control the statutory social activities of communal (non-commercial) enterprises and the way enterprises' profits can be used for socially significant goals.

The survey of the project [6] concluded that respondents at the regional level indicated the need to improve the legislative base regulating the activities of nongovernmental organizations and to develop and adopt a specific law on social enterprises. The government organization experts interviewed by the project share this view. However, the representatives of international organizations interviewed during the project's survey, proposed alternative way: to amend the civil code and tax code. In general, the majority of respondents highlighted the need to introduce tax privileges to stimulate the development of social enterprises [6, p. 162].

In April 2013 the Committee on Economic Policy of Verkhovna Rada of Ukraine considered draft law "On social enterprises", which was presented by the MP O. Fel'dman. According to the conclusion of the Chief scientific and expert department of the Parliament and the comments of the Committee members, the bill was rejected. We consider it appropriate to provide a citation from the expert conclusion placed on the Commission web site¹:

"In our opinion, the use of the term "social" to determine the type of enterprise isn't relevant, so far as mentioned term describes a certain relationship of business with society, that is inherent for any business, and not associated with any organizational form of enterprise, or the activities which it deals, or with any other conditions under which one kind of enterprise can be separated from others. In addition, when one is using this definition inadvertently seems that all other enterprises are "non-social", which is not true".

This quote shows that even experts of the Ukraine parliament does not understand the concept of social entrepreneurship, to say nothing of officials at regional and local levels. Thus, official recognition of social enterprise is necessary, whether adopting a special law or amendment to the Commercial Code and relevant laws.

Mr. O. Fel'dman in April 2015 again submitted to the Committee on Economic Policy of Verkhovna Rada of Ukraine the draft law "On social enterprises", while almost did not change its content [27]. We suggest that the draft of the bill needs substantial revision and improvements, the basic contents of which are summarized below.

1. The draft law that presented to the Parliament completely ignores the fundamental principle for social enterprises that recorded in the laws and regulatory documents of many countries and the European Commission. It refers to the prohibition or restriction of profit distribution for owners or shareholders of the business and reinvesting enterprises profits on its statutory social goals.

2. According to the draft, the status "social" will be assigned if an enterprise meets the following criteria:

(1) employment of persons assigned to socially vulnerable groups, if the proportion of which is at least half of the total number of employees; (2) provision of social services defined by the Law of Ukraine "On Social Services", if more than half of the recipients of those services are disabled people; (3) provide jobs and social services to persons from socially vulnerable groups, if the share of such persons is not less than 30

¹ http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=46025

per cent of total number of employees and at least 30 per cent of recipients of social services are disable people; (4) sell goods and services socially vulnerable people at prices equal or below the self-cost of production; (5) investing in socially important projects.

Firstly, the range of possible applicants for the status of "social enterprise" significantly narrowed because number of beneficiaries is limited only socially vulnerable people.

Secondly, this set of criteria does not fit to such important social enterprises operating in some EU-member countries, USA and Canada as the Community Economic Development Corporation (CEDC) and the Community Interest Company (CIC). The CEDC and CIC in many countries play a significant role for the socio-economic recovery of depressed areas (see [28]), so they can be effective agents of economic restructuring and the restoration of social infrastructure in the Donbass.

Thirdly, the criterion of "investments in socially important projects" is vague and raises more questions than answers.

3. The draft law stipulates that social enterprise status granted by the Interdepartmental Commission on public support for social enterprises that suggested to be created. This corresponds to the practice of state support for social enterprises in some countries. For example, the Social Enterprise Unit operates within the British Department of Trade and Industry, also under the decision of the USA President B. Obama the White House Department of Social Innovation and Civic Participation was created. At the same time, given the declared profound decentralization of public administration in Ukraine, strengthening of local self-government and further democratization of public life, one can consider it appropriate to delegate the function of assignation of the social enterprise's status at a local level. To do this, local governments should create a public commission on social entrepreneurship in which representatives of the NGOs and social enterprises should be included. It is also needed to delegate the competence for providing various tax exemptions and preferences for social enterprises to the local level, given the fact that fiscal decentralization should pass taxes on profit as the main source of local budgets.

4. Article 9 of the draft law provides that "members (participants) of social enterprise which is formed by joint a property (property rights) have the right to participate in managing the company according to their stake (share) in the property company, unless otherwise provided statute". One keep in mind that this article does not meet the European practice of democratic management in social enterprise based on the principle of "one person - one vote". In addition, the vast majority of national legislation concerning social enterprises contains a provision that called "lock assets", under which the assets of the social enterprise is indivisible

(except ones that have legal form of cooperative, limited or share company), and in a case of closing is transfer to another social enterprise.

5. In conclusion, of the Chief scientific and expert department of the Parliament concern the draft law "On Social Enterprise" made observations on that draft chapter IV "State support of social enterprises" contains five articles, four of which are not related to state support. It should accept. Moreover, it should be noted that the represented in the draft measures for support of social enterprises are, with no specific view general list of these measures: "... tax benefits while taking investment, privileges in land issues, returnable and non-repayable financial assistance, loans, facilitate to grant priority when placing public orders and the performance of state programs».

Taking in account previous comments on the transfer of competence for the regulation of social entrepreneurship at the local level, we can conclude the following:

- The law "On social enterprises in Ukraine" should play the role of framework document that defines the essence of subject, the basic criteria and procedures for granting the status of a social enterprise, the main responsibility of government and regional public authorities for promoting social enterprises. Due to absence of national social enterprise concept, it will be better on the initial stage of social enterprise legitimating to adopt the EMES European Research Network concept of social enterprise. This would allow elaborating the national one eventually.

- Concerning the issues of creation, registration, closure of social enterprises – these questions should be addressed in accordance to the regulatory norms relevant for the organization-legal form that have chosen by specific social enterprise;

- The concrete measures for social enterprises support have to be initiated by regional and local authorities based on the real opportunities for funding this support. Such initiatives can be incorporated in traditional practice of elaborating 2-year programs for small and medium size business development by oblast's administrations and local authorities.

- Appropriate forms of social enterprises support can be chosen by regional and local self-governments based on their possibilities from listed below:

- Specific enabling legal, fiscal, and regulatory environments might be needed for social entrepreneurs, according to the form that their initiatives take. For the Donbass region, it is needed urgently to determine such environments that is friendly for social enterprises like the Community Economic Development Corporation and the Community Interest Company.
- Public procurement measures should be developed so that social enterprises can consolidate and expand their growth.

- Support market development for social enterprise and provide training for public officials and social enterprises to deal with public tenders.
- Offering fiscal incentives to attract investors for social enterprises start-up and offering multiple forms of credit enhancement;
- Provide training and learning to social entrepreneurs and comprise social entrepreneurship in school and university curricula;
- Evaluating the impact of social entrepreneurship development in selected areas and conducting research in order to assess the different needs of the entities belonging to the social economy sector.

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- Лях О. В. Розвиток соціальних підприємств як спосіб пом'якшення соціальної ситуації у Донбасі**
- Мета статті полягає в дослідженні європейського досвіду поширення соціальних підприємств, тобто визначення соціальних підприємств, їх організаційно-правових форм, підтримки соціальних підприємств, а також визначені, як цей досвід може бути застосований в Україні, особливо в регіоні Донбас. Висновки з дослідження забезпечують більш цілісне розуміння зростання сектору соціального підприємництва в країнах ОЕСР. Це додає до розуміння теми дослідження у місцевому контексті, висуває рекомендації про те, що потрібно, щоб узаконити соціальне підприємство в Україні, і дозволяє визначити, які заходи є необхідними для зміцнення зростання сектору соціальних підприємств в Україні і в Донбасі, який страждає від військового конфлікту. Результати полегшують майбутні дослідження і практичну діяльність, пов'язану з соціальними підприємствами, долаючи перешкоди, викликані відсутністю юридичного визнання загальноприйнятого у ЄС визначення соціального підприємства, соціального підприємництва, а також відсутністю національної статистики соціальних підприємств та державної політики в галузі розвитку соціальних підприємств, навіть у разі Донбасу, який терміново потребує зростання цього сектору.
- Ключові слова:* соціальне підприємство, соціальне підприємництво, соціальна економіка, третій сектор, неприбуткові організації, соціальні інновації, ЄС, Україна, Донбас.
- Лях А. В. Развитие социальных предприятий как способ смягчения социальной ситуации в Донбассе**
- Цель статьи заключается в исследовании европейского опыта распространения социальных предприятий, т.е. определения социальных предприятий, их организационно-правовых форм, под-

держки социальных предприятий, а также в установлении, как этот опыт может быть применен в Украине, особенно в регионе Донбассе. Выводы исследования обеспечивают более целостное понимание феномена роста сектора социального предпринимательства в странах ОЭСР. Это способствует интерпретации темы исследования в местном контексте, выбору рекомендации относительно того, правового закрепления социальных предприятий в Украине, и позволяет определить, какие меры необходимы для ускорения роста сектора социальных предприятий в Украине и в Донбассе, который страдает от военного конфликта. Полученные результаты облегчают будущие исследования и практическую деятельность, связанную с социальными предприятиями, преодолевая препятствия, вызванные отсутствием юридического признания общепринятого в ЕС определения социального предприятия, социального предпринимательства, а также отсутствием национальной статистики социальных предприятий и не принятием государственной политики поддержки развития социальных предприятий, даже для Донбасса, который остро нуждается в росте этого сектора.

Ключевые слова: социальное предприятие, социальное предпринимательство, социальная экономика, третий сектор, некоммерческие организации, социальные инновации, ЕС, Украина, Донбасс.

Lyakh O. V. Development of Social Enterprises as Way of Mitigating the Social Situation in the Donbass

The aim of the paper is to investigate the European experience of social enterprises disseminating, i.e. the definition of social enterprises, their legal forms, forms of social enterprises support, as well as to explore how this experience could be applied in Ukraine, especially in the Donbas region. The findings from the research provide a more holistic understanding of growth of social enterprise sector in the OECD countries. This detail adds to an understand the researched topic in the local context, puts forward recommendations on what is required to legitimize social enterprise in Ukraine, and allows to determine what measures are appropriate for fostering social enterprises sector growth in Ukraine and in the region Donbass which is suffering from military conflict. Outcomes facilitates forthcoming research and practical activity connected with social enterprises by overcoming the handicaps caused by the lack of legal recognition commonly acceptable in EU definitions of social enterprise, social entrepreneurship as well as the absence of a national statistics of social enterprises and state policy for development of social enterprises, even in case of the Donbass that is urgently needed this sector growth.

Keywords: social enterprise, social entrepreneurship, social economy, third sector, non-for-profit organizations, social innovations, EU, Ukraine, Donbass.
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