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PUBLIC-PRIVATE PARTNERSHIP IN THE FIELD OF ESTABLISHMENT AND FUNCTIONING OF AGRICULTURAL PRODUCTION WHOLESALE MARKETS IN UKRAINE

The article outlines the legal and institutional factors and modern scientific approaches to implementing the public-private model of wholesale markets of agricultural products development. The author represents the peculiarities of international experience in public-private partnership in the chosen field.

Keywords: public-private partnership, agrarian market, agricultural production wholesale market.

Problem setting. In a globalized world economy the status of the agricultural sector in the country become the most important factor of the ensuring the competitiveness of domestic enterprises and the condition of sustainable development of the national economy. An important part of agricultural production activity is sales of agricultural products by creating modern civilized sales channels, including the wholesale markets of agricultural products.

With the adoption of the Law of Ukraine «On Public-Private Partnership» in 2010 scientific and practical interest to the mechanisms of its implementation in Ukraine in all spheres of Ukrainian economy have been greatly increased. Thus, the Ministry of Agriculture and Food indicate that a comprehensive public-private partnership in the agrarian field is a separate strategic priority of our country [1]. The *purpose of this article* is to study the theoretical principles and features of legal framework and practical use of public-private partnership during the establishment and functioning of agricultural products wholesale markets.

Analysis of recent research and publications. The problems of public-private partnerships in the agricultural sector have been examined by both domestic and foreign scholars. They reflected in publications of such authors as Y. Z. Hayetska-Kolotylo [2], V. M. Ermolenko [3], V. I. Semchyk [4], L. O. Pankova [5], V. V. Panchenko [6], K. Nastechko [7], A. M. Stativka [8], V. Ju. Urkevych [9] and others. But none of the publications contain a comprehensive study of public-private partnership in the agricultural market, particularly in the field establishment and functioning of agricultural production wholesale markets (hereinafter APWM).

Article's main body. The overall issue of regulation of public-private partnership enshrined in the above mentioned law of Ukraine «On public-private partnership» dated July 01, 2010 № 2404-VI, and in the Act of the Cabinet of Ministers of Ukraine «On approval of the Procedure of state support of the public-private partnership implementation» dated March 17, 2011 № 279 «Some issues on implementation of public-private partnership» dated April 11, 2011 № 384, «Procedure of analyzing the efficiency of public-private partnership» dated April 11, 2011 № 384 and others. There is no separate legal act devoted to the public-private partnerships in the agricultural market field.

Regardless the economic field the main purpose of introducing the mechanisms of public-private partnership in Ukraine is the development of economic interaction between the state and the private sector.

Art. 1 of the Law of Ukraine «On Public-Private Partnership» (hereinafter the Act) defines the public-private partnership (the PPP) as a collaboration between the State of Ukraine, the Autonomous Republic of Crimea, local communities represented by the relevant public authorities and local governments (state partners) and legal entities or individual entrepreneurs (private partners) based on the contract. The law provides that PPP projects must meet the following basic criteria: long-term character (over 5 years); provide the transfer of risks to the private partner during the projects executions; the projects should have higher technical and economic measures of efficiency against its execution without a private partner; making private investment in the objects of partnership from the sources not prohibited by laws (p. 4 Art. 3). But the presence of law on PPP

is not a guarantee of proper regulation in this area. Thus, according to scientists' opinions, the abovementioned law has a number of drawbacks. Firstly, no minimum share of the private partner in the project, (particularly in developed countries the minimum share of private funding is 25%). So even the minimum private funding share in the joint project allows its referring to PPP, shifting much of the responsibility to the state. Secondly, there are no clearly defined mechanisms for its implementation. Thirdly, according to Art. 7 the PPP applies to state or municipal property facilities. Thus, such provision prevents the implementation of projects' construction by private partner with its subsequent transmission to state (municipal) partner [10].

There are several definitions of the PPP in the literature, each of them considers the different aspects of the phenomenon, including its aim, expected results and more. They all relate to a common definition of public-private partnerships and hardly distinguish the special features of public-private partnerships in various economic sectors, particularly in agriculture.

The Art. 4 of the Law don't separate the agricultural sector as the priority area for PPP. The law mentions only the following fields of PPP relating to the agricultural sector: executions of projects concerning with ensuring the operation of irrigation and drainage systems, as well as the construction and/or operation of sea and river ports and their infrastructure. But the p. 2, Art. 4 of the Law states that the PPP can be used in other areas, except the economic activities that should conduct only by the state enterprises, institutions and organizations. Thus, under the laws of Ukraine agricultural sector can also develop on the PPP basis. This is confirmed by the provisions of the Concept of Public-Private Partnership for 2013–2018 [11]. The agriculture complex (market and production infrastructure) is still recognized as a priority field of public-private partnerships under the mentioned Concept.

In turn, the Strategy of development of the agrarian sector of Ukraine in 2020 indicated that the effective regulatory PPP system is the direction of regulatory policy in the agricultural sector. Also the priority funding of innovation and investment projects based on public-private partnerships recognized as the direction of achieving the strategic purposes in the agricultural sector [12].

The main legal act that aims to regulate the establishment and operation of WMAP in Ukraine, namely the Law of Ukraine «On the wholesale markets of agricultural products» dated June 25, 2009 № 1561-VI (the Law of Ukraine «On WMAP») does not deal with PPP, that is possible due to the later date of the enactment of the Law of Ukraine «On public-private partnership.» The law involves the provisions on the different forms of interaction between government and business, for ex-

ample, the possibility of establishing and functioning of WMAP self-regulatory organizations. According to Art. 17 of the Law «On WMAP» WMAP self-regulatory organizations may participate in drafting of regulations relating to the activities of WMAP, in the development of state target programs and other support and development of WMAP, in creation and operation of information system of WMAP and other. However, now WMAP SROs play a subtle role in the relations between state and business. Farmers mostly consider its function in obtaining economic benefits associated with the production and promotion of products on the market without intermediaries. This is primarily due to the lack of a special legal regulation of SROs in the WMAP. It should be noted that the working group of the Ministry of Agrarian Policy and Food of Ukraine prepare the draft Law of Ukraine «On peculiarities of public unions in the agri-food sector» [13]. In particular, the draft law defined the framework of governing the agricultural markets based on simplifying its regulation through the development of criteria for the organizations representing the participants' interests «government-business» in dialogue.

Also, the Law «On WMAP» refers to the various forms of public policy that supports the WMAP both during its establishment (Art. 13 of the Law «On WMAP»), and the period of existence (Article 10 of the Law «On WMAP»). However, it is appropriate to involve to the Law «On WMAP» the various forms of public-private partnership in the WMAP field, because the mechanism of PPP forms the basis for the joint responsibility of the state, community and business for the development priority sectors of the economy.

According to K. Nastechnko's opinion, public-private partnership does not work effectively in Ukraine, because Ukraine «does not see the form of public-private partnership implementation in practice», despite the fact that public-private partnerships successfully operating in many developed countries for a long time [7]. The scientist offers to stay on the mechanisms of corporatization (based on the relationship of ownership) and clustering (based on a relationship of joint activities) for the development of competitive large goods production.

We believe that we should use the experience of other countries that successfully used PPP mechanisms for the development of the agricultural market for further socio-economic development of Ukraine. Here are the features of European countries PPP, among them: long-term relationship between public authorities, local governments and private partners; protection of state and municipal ownership with the introduction of infrastructure management mechanisms provided by private partners; openness and transparency of state and local authorities activities concerning with identifying the private partners; the provision of quality services with reduced prices as an indicator of the efficiency of public-private

partnerships; combining of the financial institutions resources under the guarantees of the state and local authorities; risk sharing, identification of obligations and responsibilities in the public-private partnerships agreement [15]. Thus, the abovementioned features should be taken as the basis of public-private partnership implementation in agriculture in Ukraine.

The known forms of public-private partnership in agriculture proposed by scientists and practitioners in 2010 in the EU project «Implementation of Ukraine's obligations under the WTO and ENP frameworks in the rural sector» [14]. It discussed the possibility of using PPP mechanisms for creating the WMAP. Thus, under the current legislation of Ukraine it was suggested the following PPP model: the concession agreement, the joint-cooperation agreement, the state order for the construction of WMAP, WMAP as a joint stock company, WMAP as a rental company and others. It was also outlines the advantages and disadvantages of each proposed models. The abovementioned project has high scientific and practical value for the development of WMAP network on public-private basis, but, unfortunately, its positions hadn't gain the practical application in Ukraine and did not find the actual reflection in the special law on the establishment and operation of WMAP.

Using the researches of international experts and the provisions of the USAID Programme of Public-Private Partnerships, we can provide the examples of PPP in agriculture in other countries, among them: construction, operation and management of irrigation projects in Brazil, India, Peru, Morocco and Jordan; construction and network management of «cold chain» companies in Philippines, India, Mexico and Pakistan; construction, maintenance and management of fruits, vegetables and

local agricultural products markets in Philippines, Jordan; agriculture waste recycling (waste granulating in Moldova, squeezing sugar cane to generate electricity in Uganda, Mauritius), etc. [16].

As for the actual implementation of PPP in the agricultural market of Ukraine, it should be noted that it is at development stage. The proper interaction of public and private sector is absent due to the lack of complete legal framework that legitimizes the PPP in this area, due to the lack of financial support to the private partner involved in the project. Thus, there are a number of outstanding problems that hinder the development of public-private partnership in agriculture.

We can give an example of possible, but not implemented, PPP forms in the agricultural market of Ukraine.

1) Kherson region: retail and wholesale market for agricultural products in Golopristsanskii district. Base: the agreement on joint-cooperation between private enterprise, Kherson regional state administrations and district authorities. Stage of the project: open stalls for 100 trading places, the covered pavilion for meat and dairy products trade.

2) Rovno region: creation of «Shelen» WMAP Base: trilateral agreement on joint-cooperation between Rivne regional state administration, «Shelen» company, «Agroinvest» project. Stage of the project: the issues on land have been resolved, the preparatory work is completed, construction in progress [17].

Thus, today there are all preconditions for effective use of PPP's instruments in the agricultural market field. But the theoretical and legal problems of formation and implementation of PPP mechanisms, identification of the features, investment support and development of PPP in the WMAP field require further development.

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ДЕРЖАВНО-ПРИВАТНЕ ПАРТНЕРСТВО У СФЕРІ СТВОРЕННЯ ТА ФУНКЦІОНУВАННЯ ОПТОВИХ РИНКІВ СІЛЬСЬКОГОСПОДАРСЬКОЇ ПРОДУКЦІЇ В УКРАЇНІ

У статті визначено правові та інституційні чинники, а також сучасні наукові підходи щодо запровадження державно-приватної моделі розвитку оптових ринків сільськогосподарської продукції. Висвітлено особливості міжнародного досвіду державно-приватного партнерства в обраній сфері.

Ключові слова: державно-приватне партнерство, аграрний ринок, оптовий ринок сільськогосподарської продукції.

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ГОСУДАРСТВЕННО-ЧАСТНОЕ ПАРТНЕРСТВО В СФЕРЕ СОЗДАНИЯ И ФУНКЦИОНИРОВАНИЯ ОПТОВЫХ РЫНКОВ СЕЛЬСКОХОЗЯЙСТВЕННОЙ ПРОДУКЦИИ В УКРАИНЕ

В статье определены правовые и институциональные факторы, а также современные научные подходы по внедрению государственно-частной модели развития оптовых рынков сельскохозяйственной продукции. Освещены особенности международного опыта государственно-частного партнерства в выбранной сфере.

Ключевые слова: государственно-частное партнерство, аграрный рынок, оптовый рынок сельскохозяйственной продукции.