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PERMISSIVE RELATIONS AND SOCIAL ENTREPRENEURSHIP IN A SPHERE OF EXPLOITATION OF CULTURAL HERITAGE SITES

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Summary

Ukraine and Norway have numerous cultural heritage sites locating in villages and towns. The article focuses on the issue if a problem of an appropriate state of these objects can be solved by the implementation of principles of social entrepreneurship. The author investigated Ukrainian and Norwegian legislation in a sphere of permissive relations regarding exploitation of cultural sites and proposed some changes for its improvement.

Keywords: *cultural heritage, permissive relations, social entrepreneurship, permit, reconciliation.*

Introduction

Nowadays, Ukraine has more than 140, 000 monuments. 49,8 percent of them are archeological monuments, more than 37 percent - historical monuments, 11 percent - monuments of architecture and 2 percent - monuments of the science, technique and park art (Холодок, 2011). According to the European Commission, there are approximately 200, 000 protected monuments in the European Union and 2,5 million buildings of historical interest (Greg, 2001: 3).

There are a lot of problems with management and state of such objects in Ukraine. Investigators define the following reasons of such situation (Катаргіна, 2003: 52-62; Менська, 2014: 113; Опалько, 2007: 84 — 86): budget deficit for cultural purposes; non-rational dividing of budget finance; lack of systematic work and coordination of state organs in activity regarding protection of cultural heritage; lack of the control for implementation of actual laws and administrative decisions; absence of stimulus for investing private money; inadequate using of potential of cooperation between state organs and non-governmental organizations; imperfect of legal base and absence of effective mechanisms of the management of projects for restoration of cultural heritage objects and low level of knowledge about Ukrainian cultural heritage in the world¹.

One of the actual cultural trends is that cultural attractions are no longer confined to the centers of major cities, but are increasingly interwoven into the fabric of tourist environments everywhere (Greg, 2001: 13). Numerous Ukrainian objects of architectural cultural heritage are placed in villages and small towns. There are 1,400 towns and 8,000 villages with valuable cultural heritage in Ukraine (Костенко, 2014: 60).

We know about difficult economic and social situation in these territories. Therefore, it is important to find new possibilities for economic growth and for solving social problems in these towns and villages. In our opinion, implementation of principles of social entrepreneurship in a sphere of exploitation of architectural heritage will be the key for such transformation.

Cultural heritage became a popular issue for historical, art, sociological, cultural investigations. However, the subject of cultural heritage in terms of economic science is a new subject for economic investigations. The first conference, which dealt with this subject, took place in 1995. The first article on cultural heritage dealing with substantial economic issues was published in 1978 (Greg, 2001: 3, 10). The legal aspects of this subject are not popular and as usual, it deals with observing of international or state legislation in a sphere of protection of cultural heritage. The legal regulation of exploitation of cultural heritage is not investigated enough in Ukrainian legal science. The subject of permissive relations in this sphere and its regulation is a lacuna in legal science.

Observation of Ukrainian and Norwegian legislation in a sphere of permissive relations regarding exploitation of cultural heritage sites and discussing of perspectives for social entrepreneurs in this sphere are main goals of our investigation. Among objectives of the research is an investigation of a system of the state regulation of relations in a sphere of exploitation of objects of architectural heritage in Ukraine and Norway. It is important for understanding if it is possible for persons and entities to run social entrepreneurship by exploiting objects of cultural heritage. In addition, we will review one example of economic activity on the base of architectural heritage site in Ukraine for illustration ideas of social entrepreneurship in this sphere.

¹ Ukraine has seven objects in the World Heritage List (UNESCO), such as: Saint-Sophia Cathedral and Related Monastic Buildings, Kiev-Pechersk Lavra; Lviv – the Ensemble of the Historic Centre; Struve Geodetic Arc; Ancient and Primeval Beech Forests of the Carpathians and Other Regions of Europe; Residence of Bukovinian and Dalmatian Metropolitans; Ancient City of Tauric Chersonese and its Chora; Wooden Tserkvas of the Carpathian Region in Poland and Ukraine.

Social entrepreneurship and cultural heritage: meaning of concepts

The concept of social entrepreneurship is one of the most actual ideas in a sphere of economy and social life. There are some examples of its definition.

“Social entrepreneurship is a special form of management which purpose is to run a production function in such way as to ensure increased value for all the participating parties in that function” (Sandal, 2004).

A social entrepreneur is a leader or pragmatic visionary who achieves large scale, systemic and sustainable social change through a new invention, a different approach, a more rigorous application of known technologies or strategies or a combination of these (the Schwab Foundation for Social Entrepreneurship).

Ukraine does not provide special regime for social entrepreneurs. In accordance to the project of the Ukrainian Law “On social enterprise” (no. 2710, 23.04.2015) social enterprise is an economic subject founded by entities and/or physical persons which priorities are achievement of social results, in particular in a sphere of health welfare, education, culture, environment, giving social services and support of social attachable groups of people (unemployed and lower-income people, old people, handicapped and other people provided by the law). This definition is not correct because it does not include the important sign of social entrepreneurship – the innovative way of decisions. Social entrepreneurship is unpaid activity based on innovation, and is run by independent, creative and strong individuals (Sandal, 2003). What is an innovation?

Innovation implies that one is able to do something which previously could not be done, or at least not so efficiently or economically (Schumpeter, 1912).

According to the Franco-Austrian-Norwegian scientific tradition, innovation is defined as a new combination of the first and second input factors in a production function (Sandal, 2017: 236). Innovation is also defined in such way: “Innovation involves establishing new and better ways for accomplishing a worthwhile objective. For social entrepreneurs, this means new and better ways of serving your social mission” (Dees, 2001: 161).

There are some main differences of entrepreneurship and social entrepreneurship. They are the following:

- 1) different motivation of entrepreneur and social entrepreneur (financial profit for entrepreneur and social benefits or profit for social entrepreneur);
- 2) different value proposition. Entrepreneurs derive some personal financial gain but social entrepreneur does not create substantial financial profit for his or her investors;
- 3) social impact of business, ability to change lives and develop a community in a sustainable way are the main ideas for social entrepreneurs.

Ukraine has a rich cultural heritage, which is composed from different kinds of castles, monuments, churches etc. They are exploited mostly by governmental museums or other governmental organizations. Nowadays, we have no examples of social entrepreneurship on the base of such objects among most famous examples of social entrepreneurship.

The main purpose of entrepreneurs who exploit architectural objects in different countries is to gain profit. As usual, these entrepreneurs rent castle or other object, invest some money for its restoration and organize their business on this base (restaurant, hotel and so on). However, objects of architectural heritage should be a tool for social changes in communities, they should serve social mission not only in such a way as to be an attraction or entertainment for tourists. We need to understand the meaning of the category “cultural heritage” for understanding this idea.

Cultural heritage is an expression of the ways of living developed by a community and passed on from generation to generation, including customs, practices, places, objects, artistic expressions and values. Cultural heritage is often expressed as either intangible or tangible cultural heritage (ICOMOS, 1999).

Ukrainian Law “On protection of cultural heritage” (08.06.2000) underlines such signs of cultural heritage: it brought to us some value from archeological, aesthetic, ethnological, historical, architectural, art, scientific point of view (art. 1).

Norwegian Cultural Heritage Act (1978) identify cultural heritage as an element in the overall environment and resource management. The Act understands it as scientific source material and as an enduring basis for the experience of present and future generations and for their self-awareness, enjoyment and activities. This definition is closer to the understanding of heritage as a tool for entrepreneurship.

Nowadays, objects of cultural heritage should meet social objectives. Therefore, we need to investigate the legal base of exploitation of cultural sites for analyzing if this idea is real idea. First, we will review the Norwegian and Ukrainian norms about protection of cultural heritage.

Main positions of the state regulation in a sphere of cultural heritage

Ukrainian Law “On protection of cultural heritage” provides different authorities of state organs in a sphere of the protection of cultural heritage (chap. II). Among such authorities are the following powers:

coordination of search works for finding, investigation and documentation of objects of cultural heritage, defining the borders of territories of national monuments, affirmation their security zones, protecting archeological territories;

supervision of the accomplishment of works for investigation, conservation, restoration, repairing and other works on monuments;

reconciliation of programs and projects of architectural, building and landscape converting, earthen works on national monuments, their territories, in their protecting territories, in their security zones and also programs and projects whose realization may affect objects of cultural heritage.

Investigators of economy in cultural sector (Throsby, Michael, Hutter) categorize regulation in a sphere of cultural heritage in the next way (Hutter, Rizzo, 1997: 6-7).

1. Hard regulation. The state or one of its organs generates legal restrictions on use or exchange. Such interventions usually infringe on someone's private property rights. Nevertheless, there are different ways to compensate owners for the loss (subsidies, tax exemptions etc.).

2. Soft regulation, which is implemented by agreements including direct agreements between state authorities and private owners.

Ukrainian state uses hard regulation but agreements between state authorities and private owners are also a tool for legal regulation. There are some directions of the state regulation of commercial relations on the base of cultural heritage sites in Ukraine:

1) notification of monuments (regulated by the special order of Ministry of culture of 11.03.2013 № 158);

2) definition of special regime of exploitation of objects. Organs of cultural heritage state it (art. 24). If the object is under threat of destroying or breaking, the organ of cultural heritage makes a prevention. Pursuant to the Law (art. 21), the object can be alienated or bought forcibly in such situations. In addition, state has a right for privilege buying of such objects in special occasions (art. 20);

3) regulation of permissive relations for different actions on the base of cultural heritage sites.

Permissive relations in a sphere of exploitation of cultural heritage sites in Ukraine

Ukrainian Law "On the List of permissive documents in a sphere of economic activity" (19.05.2011) provides some kinds of permissive documents regarding actions with cultural heritage sites (pos. 46, 47, 57, 58, 63, 92, 93, 106). These actions are the next ones:

- relocating of national monuments (cultural heritage sites) (position 46)
- relocating of local monuments (cultural heritage sites) (position 47)
- works on local monuments (sites), their territories, in their protecting territories, in their security zones (conservation, restoration, repairing and some other works on monuments), registration of permits for archeological researching (position 57)
- works on national monuments (cultural heritage sites), their territories, in their protecting territories, in their security zones, security archeological territories, historical ranges of human settlements (position 58)
- town-planning, architectural and landscaping transformations whose realization may affect local monuments (sites), their territories and security zones (position 106)
- building, ameliorative, earthen and road works whose realization may affect local monuments (sites), their territories and security zones (position 106)
- allocation of advertisement on monuments (sites), in their security zones, historical ranges of human settlements (position 63, order of the Government of 05.12.2012 № 1135)
- alienation or transmission of national and local monuments (sites) by their owners or authorized organs to other persons for possession, using or administration (positions 92, 93). The following transmissions of the object are possible only after reconciliation of organs of cultural heritage. Its future owner can privatize the object of cultural heritage only after signing a previous contract about concluding a protection contract with its essential conditions.

We found some other documents with permissive character in the Law "On protection of cultural heritage" in addition to listed permissive documents. There are some norms from the Law:

1) a purpose of a site, its parts or elements is changed only after permission of the organ of cultural heritage (art. 24). It can be such purposes as market of souvenirs, restaurant, art gallery, cafe etc.;

2) transmission of national monument (site) (municipal or state), which need special protection, for using is possible after reconciliation of central organ of cultural heritage (art. 18);

3) mass and spectacular events in historical cultural reserves or historical cultural territories are conducted after reconciliation of appropriate state organ (art. 33);

4) some permissive documents are given on the base of *conclusions* of district state administrations, executive organs of village and town councils (art. 6, part 2) or managers of historical cultural reserves or territories (art. 33, part 4, art. 33-2, part 3). There are permits regarding:

programs and projects of town-planning, architectural and landscape transformations, building, ameliorative, earthen and road works on local monuments (sites), historical cultural territories and their security zones, on protected archaeological territories, in historical ranges of human settlements and programs and projects whose realization may affect a state of cultural heritage objects;

alienation or transmission of local sites by their owners or authorized organs to other persons for possession, using or administration;

town-planning, architectural and landscape transformations, building, ameliorative, earthen and road works, mass and spectacular events in historical cultural territories;

allocation of advertisement on a territory of historical cultural reserve, its security zones.

The Ukrainian Law "On permissive system in a sphere of economic activity" does not regulate such permits, conclusions and reconciliations. The base of their legal regime is defined in the article 6 of the Law "On protection of cultural heritage". Pursuant to the Law, their legal regime is regulated in more detailed way by the order of Government. Nevertheless, there is no such order now; their legal regime is not fixed in appropriate way. Ukrainian Ministry of culture approved cards of administrative services of giving permits in a sphere of protection of cultural heritage in 2014. Informational cards contain enough information about necessary documents for receiving permits, grounds for refusal in such permits (conclusions, reconciliations). However, they do not correspond with norms of the Laws "On permissive system in a sphere of economic activity" and "On protection of cultural heritage". Ministry of culture created legal norms in this sphere, but it had no such authorities. Only the law can regulate such relations (art. 4 of the Law "On permissive system in a sphere of economic activity"). Informational cards can copy legal norms but not create (Ukrainian Law "On administrative services", art. 8).

The described situation is dangerous for public and private interests. The law does not provide documents that are necessary for receiving permits and grounds for refusal. On the other hand, decisions of administrative organs made in accordance to the Ministry's order of 2014 are at risk of abolishing by a court. Therefore, public interests in protection of cultural sites and private interests of entrepreneurs in exploitation of such objects are not defended now. Such situation may be the ground for administrative anarchy in these relations. It does not help to involve investors in this sector of economy.

Among permissive documents the Law "On the List of permissive documents in a sphere of economic activity" (position 106) defines reconciliations of programs and projects of town-planning, architectural and landscape transformations, building, ameliorative, earthen and road works whose realization may affect local monuments (sites), their territories and security zones. Nevertheless, analogical documents regarding national sites are not qualified as permissive documents (art. 5, part 2 of the Law "On protection of cultural heritage"). It is not logically, legislator has to amend this mistake.

It is important to underline that actual version of the Ukrainian Law "On protection of cultural heritage" (art.22) prohibits to demolish, to change and to relocate monuments (sites), their parts, movable and immovable property related to them. However, the first version of the Law allowed to demolish, to change (besides restoration or rehabilitation) and to relocate monuments (sites). It was possible only in exceptional cases after permission of the Ukrainian Cabinet of Ministries (art. 22). Ukrainian government allowed to change and to demolish some monuments of architecture in Kyiv, Sympheropol, Ivano Frankivsk, Odesa (for example, Orders of Government of 08.11.2000 № 442-p, 25.12.2002 № 710-p, 23.04.2003 № 243-p, 11.02.2004 № 64-p, 13.07.2004 № 481-p, 03.11.2004 № 815-p, 17.11.2004 № 856-p, 16.12.2004 № 909-p).

Norms of the Ukrainian Law "On protection of cultural heritage" about permits are not enough detailed. The main rules of permissive relations are the next ones (art. 6-1):

- 1) permits, reconciliations and conclusions are given by organs of cultural heritage for free;
- 2) decision about giving or refusal for giving permit, reconciliation or conclusion is taken during one month;
- 3) receiving a right for any economic action regarding the objects of cultural heritage is forbidden on the base of declarative principle.

There are no special norms of law (at least - order of Government) for permissive relations in a sphere of exploitation of cultural heritage sites which detail a process of receiving permits, especially demands for actions of organizations that intend to disturb monuments. Ukraine has only the Standard for such administrative service as giving permit for archeological researching regulated by the Order of Ukrainian Ministry of culture and tourism of 01.09.2009 № 715/0/16-09. Nevertheless, it is important to underline that main provisions of this Order should be implemented in the law, in accordance to Ukrainian Law "On permissive system in a sphere of economic activity" (art. 4) especially norms about documents for receiving permits and reasons for refusal in giving permits.

So Ukrainian legislation does not give a meaning in what way the common norms of the Law "On protection of cultural heritage" about giving permits can be realized. This Law provides only the term and the name of organs that give permits. So these permissive relations are regulated by the common norms of the

Ukrainian Law “On permissive system in a sphere of economic activity”. Nevertheless, norms of last named Law do not protect public interests in the safety of works regarding monuments (sites). For example, pursuant to the Law state organs do not check a qualification of entrepreneurs intending to work on monuments (sites). As a result nowadays, the appropriate legislative base for an economic activity and permissive relations in a sphere of exploitation of cultural heritage sites is absent in Ukraine.

Norms of the Norwegian Cultural Heritage Act regulating permissive relations

Norms of the Norwegian Cultural Heritage Act (09.06.1978) are more common than norms of Ukrainian laws in this sphere. Therefore, the Act can be effective in some situations but we can assume controversial situations as a result of such regulation.

Norwegian Act provides that a permission to disturb an automatically protected monument or site is necessary in such occasions:

1. Anyone intending to initiate measures, which may affect an automatically protected monument or site, must notify the competent authority or the nearest police authority as early as possible before it is planned to put the measures into effect.

The competent authority shall decide as soon as possible whether and if so in what way the measures may be carried out. An appeal against the decision may be made to the Ministry within 6 weeks of the date notification of the decision reaches the addressee (art. 8).

If it only becomes apparent after work has begun that this may affect an automatically protected monument or site notification in accordance with the first paragraph shall be sent immediately, and the work stopped as far as it may affect the monument or site.

2. When a public or large private project is being planned, the person or administrative agency in charge of the project has a duty to find out whether it will affect an automatically protected monument or site.

The inquiry may be made by sending the plan for the project to the authority appointed under the Act, which is required to submit a statement within 3 months (art. 9).

3. The Ministry may require that any construction, site, etc. erected or begun in contravention of this section of the Act be removed or rectified within a specified time limit. However, permission pursuant to the first paragraph need not be obtained for construction work that complies with local area plans or development plans approved after this Act has entered into force (art. 8).

Quoted rules are some common. Organs, terms and kinds of actions for which permits must be given are not defined in the Act.

We can note some differences between norms of Ukrainian and Norwegian laws in the issue of protection of cultural heritage:

1. Norwegian Law contains more detailed norms about kinds of Monuments and sites which are automatically protected (par. 4, chapt. II). Ukrainian Law divides objects on two parts: monuments (sites) of national and of local significance. Ukraine has special Lists of such objects and new objects can appear there after special procedures.

2. Ukrainian Law has more exact definitions what actions are needed to be permitted if person or organization intends to disturb monument (site). Norwegian Law has some common rules in such sense.

3. Norwegian Law provides special regime of ship finds and under-water heritage objects, protection of post-medieval structures, sites, etc. Ukrainian Law does not contain special norms about such objects.

4. Norwegian Law regulates relations between owners and the state more extensively, it provides obligations of owners in very different situations (such as damage by fire, maintenance of protected structures, procedure for the returning of cultural objects etc.).

Ukrainian Law has no any special norms about such situations and has no special norms for the defense of ship finds and under-water heritage objects. Nevertheless, it has norms about privatization of such objects, exclusion and transfer of monuments of national significance, the right of the government for privileges in purchases of such objects.

Therefore, Ukrainian and Norwegian laws in the sphere of protection of cultural heritage are strict in different ways. They provide serious system of the state control, which includes numerous situations for receiving permissive documents, interference of the state in relations of possession, and actions that may effect on the objects.

State support for entrepreneurship in a sphere of exploitation of cultural heritage sites

The main problem for Ukrainian entrepreneurs who intend to run business in this sphere is an absence of state support for such entrepreneurship. Ukrainian legislation does not know the category of social entrepreneur. Therefore, Ukrainian Tax Codex does not provide any special norms about taxation of social entrepreneurs.

Ukrainian Law “On the rent of state and communal property” provides possibility to rent the state and communal monuments (sites). However, the Law does not provide special conditions of the payment. It could be one of obstacles for running entrepreneurship on the base of architectural heritage sites. Renter must keep such object in a proper state but it is impossible to pay high rent payment and to restore the object in the same time. It's a big economic problem, which need to be solved by the legal norms.

A foreign experience proves that state support is necessary for effective exploitation of cultural heritage sites.

Experts investigated that countries in South-East Europe have enough problems in a sphere of protection of cultural heritage. They have limited budgets and cultural heritage is not in the first place of their concern. However, they have incentives for financial support of cultural heritage:

a) tax incentives are provided in Bulgaria and Romania (in Romania - for preservative conservation and restoration work for cultural objects);

b) Macedonia gives some funding for integrated community development, which assists the heritage.

The concession mechanism is one of the main perspective directions in the sphere of commercial exploitation of cultural heritage. Nevertheless, the appropriate experience in South-East Europe is not so excellent. The good example is the Croatia where incomes raised from commercial usage are redirected to the state or municipal budget to support preservation actions by owners.

There are some kinds of the state support of entrepreneurs in this sphere of economic activity in France:

1) exemption from the land tax (50 or 100 percent depending on the free or non-free entrance);

2) the state finances all costs for preparing an object which will be opened for visitors and near 50 percent costs on restoration of the object (Надилова, 2009: 7).

There is a tax privilege in the volume of 25 percent for investments on restoration of historical buildings in USA since 1982 (Катаргіна, 2003: 105).

Economists write that economic effect of exploitation of such objects, usage them in concession form with investing money for their renovation could be different depending on the state of objects, volume of necessary investment (Менська, 2014: 117). However, it does not mean that state support is not necessary. We need to remember that while ineffective rules are stubbornly maintained unique objects disappear daily (Greg, 2001: 8). The implementation of principles of social entrepreneurship in this sphere should be one of courses for survival of cultural heritage. We propose one example of social entrepreneurship on the base of cultural heritage site. It takes place in Zakarpathya, in village Chynadiyevno near Mukachevo (Гончарова, 2016).

The family of artists Bartosh rented the Castle St. Michlosh (XV century; no.1185 in the State list of national cultural heritage). They worked for two years to receive the rent. The rent agreement provides free rent with condition of restoration of the Castle by renters. The purpose of the renting was the organizing and the functioning of cultural art center and conservation of the Castle. Renters received one million Hungarian forints from Hungarian government for restoration Castle's roof. They spend own money and money of their friends for restoration to fulfill their agreement's obligation.

Renters opened a library and an art school for children in the Castle. They organize concerts of classical music, exhibitions and festivals, and improve a park near the Castle. Nowadays numerous newlyweds from Zakarpathya get married in the Castle. The rent of the Castle pushed up the economic growth of the Chenadievo community because there are thousands of tourists every year in the Castle; four small hotels were built in the village, which created dozens of working places. Renters do not intend to realize any commercial projects in the Castle.

In our opinion, economic activity of the family of Bartosh is an example of social entrepreneurship. It solves some social problems: protection of cultural heritage, which is important for Ukrainian society, art education of children and adults in the village. Most famous examples of social entrepreneurship in Ukraine (Social bakery “Nut house” in Lviv, Pizza Veterano etc.) give us an imagination that business process evolving employees from social risk group is an example of social entrepreneurship (Долуда, 2017: 24-26).

Conclusions

Using of objects of cultural heritage for education and entertainment is important for the development of any person. It forms wide thinking and tolerant persons, distract them from unsociable behavior. As a result, it contributes the peace in the society. There is an important social mission of entrepreneurs in the cultural sphere.

Involving people from the problem social groups to the commercial exploitation of castles and such other objects should be the way for serving social purposes. As usual if a castle or any analogical object begins to function, the community receives new places for job, tourists, new ways for running business in closer sectors (hotel, trade, cafe etc.). So cultural heritage sites can be a material basis for running a social entrepreneurship.

Social entrepreneurship on such material base should be a driver of economic growth and social sustainability of village's territories where many Ukrainian castles and other objects of cultural heritage are located. Different social problems should be solved through commercial exploitation of objects of cultural heritage (especially we mean problems of unemployed people in villages, former participants of ATO etc.). Nevertheless, integral part of the organizing of social entrepreneurship is the providing of state support.

Transformation of permissive legislation is necessary for involvement of investors in the sphere of exploitation of cultural heritage sites. There are eight kinds of permissive documents receiving in accordance to the Ukrainian Law "On permissive system in a sphere of economic activity" and article 6-1 of the Law "On protection of cultural heritage" and also some documents with permissive character receiving pursuant to the Ukrainian Law "On protection of cultural heritage". Legal regime of the second group of documents (permits, conclusions and reconciliations) is not fixed in appropriate way, in detail, by the order of Government. This situation is dangerous for public and private interests.

We found that norms of the Ukrainian Law "On protection of cultural heritage" about permits are not enough full and detailed. It contains only three rules about term and organs giving permissive documents. There are no special norms of law or an order of Government for permissive relations in a sphere of exploitation of cultural heritage sites, which detail demands for actions of organizations (persons) that intend to disturb sites (monuments). So these permissive relations are regulated by common norms of the Ukrainian Law "On permissive system in a sphere of economic activity". Nevertheless, they do not protect public interests for safety of works regarding monuments (sites).

Norms of the Norwegian Cultural Heritage Act (09.06.1978) have character that is more common. They provide that permission to disturb an automatically protected monument or site is necessary in some occasions.

Ukrainian and Norwegian laws in the sphere of protection of cultural heritage are strict. They provide serious system of the state control, which includes numerous situations for receiving permissive documents, state interference in relations of possession, and actions that may effect on the objects. The improvement of the laws will be an important help for activation of organizing of social entrepreneurship in this sphere.

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Anotacija

REGLAMENTUOJAMI SANTYKIAI IR SOCIALINĖ VERSLININKYSTĖ KULTŪRINIO PAVELDO OBJEKTŲ NAUDOJIMO SRITYJE

Ukrainos ir Norvegijos kaimuose bei miesteliuose yra daugybė kultūros paveldo objektų. Svarbiausi straipsnio tyrimo tikslai yra Ukrainos ir Norvegijos teisės aktų, susijusių su kultūrinio paveldo objektų naudojimu, apžvalga ir socialinių verslininkų perspektyvų šioje srityje aptarimas.

Pirma, autorius apibūdina socialinės verslininkystės ir kultūros paveldo sąvokas. Tada apibrėžia komercinių santykių, susijusių su kultūros paveldu Ukrainoje, valstybinio reguliavimo kryptis, tokias kaip saugotinių objektų paskelbimas, specialaus objektų eksploatavimo nusakymas, įvairių veiksmų su kultūros paveldo objektais santykių reguliavimas.

Išnagrinėjusi Ukrainos įstatymą „Dėl leidžiamosios sistemos ekonominės veiklos srityje“ ir įstatymo „Dėl kultūros paveldo apsaugos“ 6-1 straipsnį, taip pat kai kuriuos kitus dokumentus, leidžiamus pagal Ukrainos įstatymą „Dėl kultūros paveldo apsaugos“ autorė, nustatė aštuonias dokumentų rūšis. Antrosios grupės dokumentų teisinis reglamentavimas vyriausybės lygmenyje nėra išsamiai nustatytas, todėl ši padėtis yra pavojinga viešiesiems ir privatiems interesams.

Ukrainos įstatymo „Dėl kultūros paveldo apsaugos“ normos apie leidimus nėra pakankamai išsamios. Jose yra tik trys taisyklės apie leidžiamus santykius (apie terminą ir leidimų išdavimą). Nėra jokių specialių teisės normų ar Vyriausybės nutarimo dėl leidžiamų santykių kultūros paveldo objektų naudojimo srityje, kur būtų išsamiai išdėstyti reikalavimai organizacijoms dėl paminklų (monumentų) saugojimo. Taigi, šiuos leidžiamus santykius reglamentuoja bendrosios Ukrainos įstatymo „Dėl leidžiamosios sistemos ekonominės veiklos srityje“ bendrosios normos. Deja, tai neapsaugo paminklų (objektų) saugos viešųjų interesų.

Norvegijos kultūros paveldo įstatymo (1978-06-09) normos yra labiau bendros nei šios srities Ukrainos įstatymų normos. Jie reikalauja gauti leidimus dėl įsikišimo į automatiškai saugomus paminklus ar vietas. Tiek Ukrainos, tiek Norvegijos įstatymai kultūros paveldo apsaugos srityje yra griežti. Jie numato rimtą valstybės kontrolės sistemą, apimančią įvairias situacijas dėl leidimų dokumentų gavimo, tačiau norint įtraukti investuotojus į šiuos ekonomikos sektorius būtina pertvarkyti leidžiamus teisės aktus, išsamiai išdėstant jų normas.

Esminiai žodžiai: kultūrinis paveldas, leidžiami santykiai, socialinis verslumas, leidimas, suderinimas.

**AUKŠTŲJŲ MOKYKLŲ VAIDMUO VISUOMENĖJE:
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