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АНАЛІЗ РЕАЛІЗАЦІЇ РЕКОМЕНДАЦІЇ СМ/РЕС (2007) 14 КОМІТЕТУ МІНІСТРІВ ДЛЯ КРАЇН – ЧЛЕНІВ ЄС ЩОДО ПРАВОВОГО СТАТУСУ НЕУРЯДОВИХ ОРГАНІЗАЦІЙ В ДЕЯКИХ ОКРЕМИХ ЄВРОПЕЙСЬКИХ КРАЇНАХ

АНАЛИЗ РЕАЛИЗАЦИИ РЕКОМЕНДАЦИИ СМ / REC (2007) 14 КОМИТЕТА МИНИСТРОВ ДЛЯ СТРАН - ЧЛЕНОВ ЕС ПО ПРАВОВОЙ СТАТУС НЕПРАВИТЕЛЬСТВЕННЫХ ОРГАНИЗАЦИЙ В НЕКОТОРЫХ ОТДЕЛЬНЫХ ЕВРОПЕЙСКИХ СТРАНАХ

ANALYSIS OF IMPLEMENTATION OF RECOMMENDATION CM/REC (2007) 14 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES ON THE LEGAL STATUS OF NON-GOVERN- MENTAL ORGANIZATIONS IN EUROPE IN SOME INDIVIDUAL MEMBER STATES

В статті проаналізовані підходи різних європейських країн до практичної реалізації деяких положень Рекомендації СМ/Рес (2007) 14 Комітету Міністрів для країн – членів ЄС щодо правового статусу неурядових організацій в Європі (Recommendation CM/Rec (2007) 14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe), які стосуються визначення некомерційних організацій, процесу надання недержаним об'єднанням статусу неприбуткових організацій, процедурі заснування неприбуткових, недержавних об'єднань, визначення підходів до можливостей або заборони некомерційних організацій займатися бізнес діяльністю, можливих підстав, через які державні органи можуть відмовити некомерційним організаціям в наданні неприбуткового статусу, а також процедурних обмежень на прийняття такого рішення; змін у статутах некомерційних організацій, можливих форм державної підтримки. В статті також розглядаються підходи різних країн до процесу консультацій з НГО з метою розробки державних документів європейських країн.

Ключові слова: неприбуткова організація, некомерційна організація, НГО, Європейський Союз, реалізація, документ, регулювання.

В статье проанализированы подходы разных европейских стран к практической реализации Рекомендации СМ/Рес (2007) 14 Комитета Министров для стран – участниц ЕС о правовом статусе неправительственных организаций в Европе (Recommendation CM/Rec (2007) 14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe), которые касаются определения некомерческих организаций, процесса предоставления негосударственным объединениям статуса неприбыльных организаций, процедуры учреждения неприбыльных, негосударственных объединений, определения подходов к возможности или запрета для некомерческих организаций заниматься бизнес деятельностью, возможных причин, по которым государственные органы могут отказать некомерческим организациям в предоставлении неприбыльного статуса, а также процедурных ограничений на принятие такого решения, изменений в

статутах некомерческих организаций, возможных форм государственной поддержки. В статье также рассматриваются подходы разных стран к процессу консультаций с НГО с целью разработки государственных документов европейских стран.

Ключевые слова: неприбыльная организация, некомерческая организация, НГО, Европейский Союз, реализация, документ, регулирование.

This article analyzes approaches of different European countries for practical implementation of some provisions of Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe, dealing with definition of nonprofit organizations, process of granting nongovernmental unions status of nonprofit organizations, procedure of establishing of nonprofit, nongovernmental unions, defining approaches for possibility or prohibition for nonprofits to conduct business activities, possible reasons because of which state bodies may refuse nonprofits in granting them nonprofit status, and also procedural limits for making such decisions, changes in statutes of nonprofit organizations, possible forms of state support. Article also considers approaches of different countries for process of consultations with NGOs aimed to design state documents of European countries.

Key words: nonprofit organization, NGO, European Union, implementation, document, regulation.

Introduction. Ukrainian civil society is actively developing. However, its' role and place in the life of society are not finally defined. That's why it is extremely important for us to study leading world, and, in particular, European experience. Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe was chosen for analysis because, despite having recommendation character, this document includes the fullest list of issues dealing with state regulation of activities of nonprofit organizations. And thanks to Explanatory Memorandum to this Recommendation it is clear why exactly these approaches help in development of nonprofit organizations and, thus, civil society. Approaches of different European countries for practical implementation of this document are also extremely important to analyze in order to adopt the best experience.

Analysis of documents of such organizations as Council of Europe [1], OSCE [2], AssociatiOnline [3] etc. impossible without critical understanding of Recommendation, as this Recommendation often serves as a basis for analysis and adopting of appropriate national acts. Attempt of Ukrainian professionals M. Bulgakova and A. Petriv [4] to consider Ukrainian legislation about regulation of activities of nonprofit organizations, in our opinion, is not fundamental enough, because some articles of Recommendation are not fully understood.

Scientific and practical tasks to study practice of European countries in the field of practical implementation of some provisions of Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe in order to define best practice for more detailed research and future adoption in Ukraine.

Ukrainian civil society is still developing. That's why there is a need to study leading world, and, in particular, European experience.

Task setting is to study different approaches of European countries for practical implementation of some provisions of Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe.

Methodology. Desk research, conducted by us, is based on method of comparative analysis of documents and different experience of their implementation.

Research results. Implementation of Recommendation pCM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe

European Commission Directorate-General of Justice, Freedom and Security in its' "Study on recent public and self-regulatory initiatives improving transparency and accountability of non-profit organizations in the European Union" identifies some common trends in regulation and self-regulation of nonprofits within the EU [5]: 1) promoting of accountability and transparency of nonprofits; 2) improving general legal framework for NGOs; 3) creating state Registers of NGOs or making data about nonprofit organizations more available for general public; 4) introducing public benefit status and/or more requirements for accountability; 5) strengthening regulations dealing with fundraising and financial management; 6) using self-regulation to improve governance and accountability of nonprofits; 7) increasing powers for monitoring and investigation; 8) increasing transparency in the field of state funding of NGOs; 9) consultation and cross-sectoral cooperation are developing very slowly; 10) corporations and commercial firms are more and more engaged in partnerships with NGOs; 11) there are initiatives to solve problems affecting nonprofit

sector at the EU level: a) Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe by itself; b) initiative to introduce European Foundation Statute and Statute of a European Association; c) cases for ECJ aimed to eliminate remaining barriers for cross-border donations in the EU; d) Guidestar initiative to create All-European database of NGOs.

This study also mentions other important factors affecting level of NGO sector development in the country. [5] For instance, way of privacy rights implementation. For example, in Italy nonprofit should have written permissions from people in order to send to them letters asking for donations. On the other hand, in Hungary NGOs may just buy data and then simply inform people where they got their personal details. Another important thing is ratio between state regulation and self regulation. In more mature states, for example, UK and Ireland, there is trend for less state regulation and more self-regulation, with higher standards for transparency and accountability of NGOs. In new member states situation is opposite. Moreover, one should keep in mind important differences between large and small nonprofit organizations. In some countries NGOs even don't have to register if they have incomes less than some certain amounts, but there are more regulating requirements for larger organizations.

Among European Centre of Not-For-Profit Law (ECNL) publications there is "Selected provisions from world practice about procedure of granting to organizations charity status, public benefit status and free of taxes status [6]". It analyses legislation in the field of nonprofits in different countries. Further this is compared with selected provisions of "Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe [7]" and its' Explanatory Memorandum [8] in order to analyze how this Recommendation is actually implemented.

Definition of Non Profit Organization

In Paragraph 1 of the Recommendation [7] NGOs are defined as freewill autonomous bodies or organizations created to achieve essentially non-profit goals of their founders and members. Political parties are not included in this definition.

The Explanatory Memorandum to this Recommendation [8] states that there is no one universal definition of non-for-profit organization, but explains definition used in Recommendation. According to it, nonprofits should have the following special features: they are established and conduct activities on voluntary basis, are self-managed, but not governed by state bodies, and that their main goal is not generating profits. NGOs can have different names: associations, charities or foundations etc, but they are under scope of this Recommendation due to their actual nature. Political parties are not part of this definition because in many countries there are separate provisions for them. But states can decide to treat political parties as NGOs. Professional bodies, which are established to regulate professions and where people are obliged to belong, are also excluded from this definition because membership is not free choice and because they are governed by state bodies. However, states can choose to treat such organizations as NGOs. In addition, entities they establish can be voluntarily enough to be part of this definition, for example, human rights committee of a bar association.

However, in practice, approaches to implementation of these provisions in different European countries vary. For example, according to Selected provisions from world practice about procedure of granting to organizations charity status, public benefit status and free of taxes status [6], in Bulgaria NGOs are named "legal persons with nonprofit goals". There is a list of such possible goals: 1) cultural goals, civil society development, as well as goals dealing with health care, science, education etc. 2) help for socially vulnerable groups; 3) help in social integration and self-realization of a person, goals dealing with human rights and environment; 4) other goals. However, "legal persons with nonprofit goals are divided at associations and foundations.

In Estonia [6] on the other hand, there is a list of associations and foundations, that have rights to receive tax benefits: 1) churches, congregations and their associations; 2) political parties; 3) organizations, that have activities directed at: charity, development of science, education, culture, sports, as well as law enforcement organizations, and those who have goals in the fields of health care, social welfare, environmental issues, culture of national minorities, as well as culture of religious groups. However, these organizations (except religious associations and political parties) should meet following conditions: 1) they don't divide profits between founders and members, and their relatives; 2) if organization is terminated it should transmit its' assets to organization with similar goals or to legal entity decided by state; 3) administrative expenses of organization are not to big; 4) managers and employees are paid no more than for similar jobs in commercial firms.

In France [6] NGOs are divided into two big groups: associations and foundations. Associations, in turn, are divided into three categories: associations with "public utility" status, associations with "general

interest status” and associations without any status. In general, associations are defined as agreement between two or more people to unite their knowledge in order to conduct activities, not aimed at distributing profits.

In Germany [6] NGOs should be active only in nonprofit goals. There are three main groups of such goals:

- 1) Advance general well-being;
 - a) Goals dealing with science, education, culture, religion, mutual understanding between different nationalities, environmental protection, memorials, country traditions;
 - b) Help youth and old people, social welfare and health care, sports;
 - c) Democracy development;
 - d) Assisting in animal breeding and plant growing, as well as help for soldiers;
- 2) Charity goals : help either mentally or physically disabled or very poor people
- 3) Helping church organizations

In UK [6] there is different legislation for different parts of the country. In England and Wales charity organizations also should be engaged only in activities directed at charity goals. There are two big groups of charity goals:

- 1) Easing financial difficulties, assisting in educational programs, helping in religious sphere.
- 2) All other goals, for example: helping elderly and disabled people; settlement and rehabilitation of criminals and drug addicted people; helping victims of natural and manmade disasters, organizations active in human rights protection, recreation facilities for general public, community structures development, health care

Normally in EU countries NGOs are divided into two big groups: associations (membership-based NGOs) and foundations. In addition, in many states there are special lists of nonprofit goals and/or spheres of activities. It helps with practical implementation of provisions in Recommendation dealing with definition of nonprofit organization.

Process of granting NGOs legal personality / establishing NGO

Paragraph 28 of the “Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe” states that rules on acquisition of legal personality, where it is not automatic result of establishing NGO, should not leave possibilities of free-will of state bodies [7] In Explanatory Memorandum [8] it is further explained that in countries where legal personality is not granted automatically after establishing NGO, should be process for evaluation if all legal requirements were met. If state bodies refuse to grant NGO legal personality, grounds for this should be clearly stated and allow objective assessment of meeting legal requirements guided by Paragraph 34 of the Recommendation.

Moreover, Paragraph 29 of the Recommendation [7] elaborates that these rules should be widely published and the process should be clear and easy to understand and make .And in Explanatory Memorandum it is stated that it would help to found NGO is interested people could access rules and process easy to understand and satisfy. For this purpose a guide for requirements for establishing NGO can be produced [8]

In Bulgaria [6] NGO should be registered in special Register of legal persons with nonprofit goals in order to receive legal personality. In order to do it, nonprofits should provide required documents: application, copy of court decision about registration of this organization, list of board members, certificate confirming registration in tax office, proof that organization satisfies criteria regarding fields of its’ activities, leading bodies, criteria regarding their documents and property, declaration stating if organization has some tax liabilities, information about internal rules and conditions.

In Estonia [6] there is also Register of tax free organizations. It is operated by tax bodies. Nonprofits should provide smaller number of documents: application, statute of organization, copy of certificate about state registration, annual report and audited administrative report.

In France [6] in order to obtain status of public benefit, association should:

1. Register in state body according to geographical location, providing information about name and objectives of organization, territory and field of activities, addresses and nationalities (citizenship) of leaders of organization. NGO should also provide two copies of statute.
2. During next five days nonprofit should receive confirmation that documents were received.
3. Association is officially created after publication about it in official journal and receiving confirmation about handing in all required documents.

In Germany [6] organizations have rights for tax benefits if they meet conditions regarding nonprofit goals and activities.

In England and Wales (parts of UK) there is a special Charity Commission dealing with nonprofits [6]. It does not grant charities their nonprofit status, but only confirms it. There are three forms of charities: non-incorporate unions (associations), trusts and foundations. In order to confirm nonprofit status, each of these organizations should provide: application, declaration filled in by every trustee, regulating documents in which charity nature of organization is stated.

Ireland [5] is characterised by “mixed regulatory model”, that is combination of public regulation and self-regulation. It is displayed in the Charities Regulation Bill. State encourages self-regulation. Fundraising management and activities would be regulated by Codes of Good Practice created by NGOs. However, state would grant fundraising permits and control accountability requirements.

Malta [5] is civil law country, but it was influenced by common law system, in particular, in common law charity concept. NGOs are divided into associations and foundations. Foundations should register in state register any way. But associations can make a choice if they want to do it. Unregistered associations have basic rights, such as signing contracts and opening bank accounts. However, there are incentives for them to register, as registered associations have more rights, for example, be engaged in fundraising or receive donations.

In Netherlands [5] NGOs should register to obtain ANBI status. This status gives them rights for tax benefits on both incomes and donations. There are certain criteria, that organization should meet to get it: 1) it should have only non profit goals, 2) have charitable character, 3) capital owners can't control assets of the organization, 4) institution is allowed to have only assets necessary for its' operations, not more, 5) leaders of organization can be paid only for their expenses and not very big fee for attendance. However, members, that regularly conduct activities, are allowed to receive reasonable compensations as well; 6) NGO should provide policy plan, as well as explain what are activities of organization, information about fundraising and management of funds and expenses; 7) fundraising and administration expenses should be in appropriate proportion to charity expenses; 8) if organization is terminated, its assets should be inherited by similar institution; 9) all records and books should transparently display information about previous requirements .

In all analyzed countries NGOs should be included in special registers in order to officially establish nonprofit organizations. However, requirements for that vary greatly from one state to another. In some countries nonprofits should provide too many documents. Thus, provisions of Recommendation dealing with process of granting NGO legal personality/establishing NGO are not fully implemented.

Possibility to conduct economic activities

According to Paragraph 14 of the Recommendation [7], NGOs also should be allowed to do any economic, business or commercial activities for support of their non commercial activities without any special authorization and meet general licensing and other regulatory requirements to these activities. Explanatory Memorandum [8] further elaborates that NGOs are not established to make profits and this is one of the features that differs them from commercial firms. However, they still need some sources of income to achieve their goals and this could be fees, grants and donations, as well as economic, commercial and business activities. But incomes from such activities should not be distributed among founders or members of nonprofit organization (see Paragraph 9 of the Recommendation). Possibility to conduct economic, business or commercial activities should not preclude meeting some modalities, such as establishment of subsidiary company for these purposes.

However, practical situation in different EU member states differs in this aspect.

So, in Bulgaria [6] nonprofits are allowed to conduct economic activities, connected with their main activities, if they use profits only for achievement of statute goals.

In Germany [6] NGOs can conduct economic activities, if they meet following criteria: these activities are not directed on own benefit of organization, funds are used only for statute goals (in particular, nonprofits are not allowed to use it for salaries for their employees or to pay members, and for supporting political parties), if members decide to leave organization or if organization is terminated, members receive back only their expenses and costs of their stock, and the rest money can be used only for tax free goals during defined period of time; NGO can't pay compensations for any expenses not related with statute goals and employees can't have too big salaries.

However, in some other countries, for example, in France, or in England and Wales (parts of UK) nonprofits are not allowed to be engaged in any economic activities [6]

Not in all EU countries NGOs are allowed to be involved in economic activities, even if those would be connected with mission of organization. Those provisions of Recommendation are not fully implemented. However, right to conduct economic activities and to receive incomes other than state financing (for example, grants or member fees) is extremely important because it shows which organizations people really support.

Refusal to grant NGO legal personality and time limits for making decision about granting or refusal to grant NGO legal personality

According Paragraph 34 of the Recommendation [7] states can deny to grant legal personality to NGO only if: not all required documents were submitted, name of the NGO is patently misleading or this name is hard to differ from name of existing natural or legal person in country concerned, or state believes that goals of the NGO statute unfit democratic society. Explanatory Memorandum [8] further elaborates that the grounds for refusing to grant NGO legal personality should include only relevant reasons, such as names belonging to other people or entities or misleading names. National law should set up the structured nature of such discretion.

Moreover, Paragraph 37 of this Recommendation [7] states that here should be reasonable time limit on decision to grant or not to grant legal personality to NGO. In Explanatory Memorandum [8] it is explained that process of making decision about granting legal personality to NGO should have appropriate time limits. Delay in it should not harm achievement of NGO objectives. When deciding about this time limit, it should be compared with time limit for such decisions regarding corporations or business firms. However, in most states this can be done in days, not weeks. If state bodies could not decide during stated time limits, it should mean automatic grant or refusal to grant a legal personality.

In Bulgaria [6] state body should make decision during 14 days. If there is no decision it means that registration was denied.

In Estonia [6] there are criteria for refusing to include NGO in register: it conducts mainly business activities, it uses profits for achievement of goals, other than statute goals, organization has tax liabilities, it is under termination or bankruptcy, provided documents don't meet legal criteria.

In England and Wales (parts of UK) [6] Charity Commission should inform applying organization during 15 days that it received documents. In this confirmation it should be already stated if this application will be considered or not. Organization can challenge such refusal in court. Normally Charity Commission asks applying organizations to provide some additional information. Process takes in average 88 days, but it can be faster if applying organization has incomes less than 10 thousand pounds.

In general, decision to grant nonprofit legal personality or to deny in doing so takes in practice much more time than it is stated in Recommendation. There are areas for further improvement.

Changes in statutes

According to Paragraph 43 of the Recommendation [7] nonprofits should not need any state approval to change their statutes, unless such changes affect name or objectives of organization. The procedure of granting such approval should be the same as the procedure of granting legal personality to NGO. NGO can't be required to establish new legal entity. However, it can be required to inform state body about changes in statutes before they enter into force.

Explanatory Memorandum [8] further states that NGOs should be required to have approval of state bodies for changes in their statutes only if these changes concern issues that might be basis for refusal to grant legal personality for them. However, NGOs may be required to inform state bodies about changes in their statutes before these changes enter into force. So, member state can require adding such changes in special register before they are applied. It can be done in order to protect interests of current and potential members, as well as creditors, bodies granting subsidies, state authorities and other contact groups.

Moreover, procedure for granting legal personality should already contain requirements for approval to make changes. However, NGOs should not be required to found themselves as completely new entity in order to receive approval for changes. In this paragraph term "approval" does not cover any participation of lawyers or notaries in preparing the change to the statutes.

However, in practice NGOs should in some countries just inform state bodies about changes in statutes and in some countries they need even approval of state bodies to do that.

For example, in Bulgaria [6] General Meeting of NGO should have rights to make changes in the statute of association. However, court bodies control these decisions if they are legal and if they contradict with the statute. Moreover, if founder of foundation can't make changes in the statute by himself /herself, interested persons can ask district court to do that. In addition, NGOs should submit annual reports about their activities for state register. Among other things, it should contain information about changes in statutes. If state employees of this Register come to conclusion that there are violation(s) of the law, they should inform about that state bodies of financial control and public prosecutors' office in order to make revisions and make appropriate measures.

In Estonia [6] NGO should just inform tax office about any changes in statute during 30 days after these changes were added to Register.

In France [6] NGOs need decision of State Council in order to make changes in their own statutes.

Moreover, Minister of home affairs should apply for this and can make this decision by himself/herself if his/her opinion is the same as opinion of State Council.

In some countries nonprofits need approval of state bodies to make changes in their own statutes. It makes NGO less independent from state bodies and might stimulate corruption.

Possible forms of state support

Generally, states help NGOs mainly by giving them tax benefits.

In Bulgaria [6] law states that government can help NGOs by such financial preferences as tax benefits and custom preferences, credits for smaller lender rates, and also by direct financing of NGO activities. However, in practice government provides only some tax benefits for nonprofits.

In Estonia [6] NGOs don't pay income tax on member fees, and they don't pay taxes if they make gifts or pay donations to each other. Moreover, nonprofits don't pay taxes for gifts and donations received from foundations.

In France [6] NGOs don't have to pay some taxes on economic activities. Moreover, organizations with status for public benefit are free for few more taxes, for example, taxes on inheritance. In addition, there are specified fields of activities where all active nonprofits have additional tax benefits. NGOs with goals directed on public benefit also don't pay taxes on some types of donations.

In Germany [6] NGOs have tax benefits. In particular, they don't pay tax on profits, member fees, grants and income from investments. They are also free from tax on profits from their economic activities if it uses it to achieve statute goals.

In England and Wales (parts of UK) [6] NGOs don't pay income tax on grants, gifts and some other incomes, as well as taxes on inheritance, and in some cases VAT.

In general, tax benefits proved to be useful form of state support due to nonprofit nature of NGO activities.

Implementation of consultations of state bodies with NGOs while creating legislation in EU member states

According to Paragraph 77 of Recommendation [7] NGOs should be consulted in the process of drafting or primarily and secondary legislation which influences their status, financing or spheres of operation. Explanatory Memorandum [8] further explains that NGOs should be consulted about issues that are relevant to their goal and also about changes in legislation that would potentially influence their ability to reach these goals. Such consultation is important because such changes could have direct impacts on their interests and the efficiency of their contribution to democratic society, and also because they have working experience useful for estimation of proposed changes.

In addition to consultation process at the EU level described above, in practice in many countries it is implemented through state offices responsible for cooperation with NGOs. According to K. Hadzi-Miceva-Uvans [9] these offices, among other functions, draft legislative documents and manage process of consultations if these documents affect NGOs. These bodies can: 1) be created by government, but work independently (for example, in France, Estonia, Hungary, and Macedonia), 2) be established and operate as consultative bodies (as in Slovakia or Czech Republic), 3) have status of state body, and cooperate with consultative body (for example, in Poland); 4) be part of bigger body, responsible for NGOs development in the country (Croatia model); 5) be created by nonprofits by themselves.

Thus, nonprofits are consulted, but in different ways.

Conclusions. Nonprofit organizations are developing all around the world and, in particular, in the European Union. NGOs are active practically in all spheres of social life, even in those fields, that used to be exclusive responsibility of states.

In general, there are common trends in regulation and self-regulation of nonprofits within EU: 1) promoting of accountability and transparency of nonprofits; 2) improving general legal framework for NGOs; 3) creating state Registers of NGOs or making data about nonprofit organizations more available for general public; 4) introducing public benefit status and/or more requirements for accountability; 5) strengthening regulations dealing with fundraising and financial management; 6) using self-regulation to improve governance and accountability of nonprofits; 7) increasing powers for monitoring and investigation; 8) increasing transparency in the field of state funding of NGOs; 9) consultation and cross-sectoral cooperation are developing very slowly; 10) corporations and commercial firms are more and more engaged in partnerships with NGOs; 11) there are initiatives to solve problems affecting nonprofit sector at the EU level: a) Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe by itself; b) initiative to introduce European Foundation Statute and Statute of a European Association; c) cases for ECJ aimed to eliminate remaining barriers for cross-border donations in the EU; d) Guidestar initiative to create All-European database of NGOs.

In addition, in mature states governments tend to do less regulation and leave more to self-regulation. But in new member states situation is opposite.

NGO activities are also influenced by the way how private rights are implemented in given country. In addition, there are often different registration requirements for small and large NGOs.

Normally EU countries treat NGOs based on their legal form, the most often those are associations and foundations. However, UK and Ireland are exceptions from this. They treat organizations as NGOs based on their activities.

In all analyzed countries there are lists of possible goals organizations should have in order to be treated as NGO. In general, nonprofits should be included in special registers. However, requirement for including in these registers vary.

According to the Recommendation NGOs should be allowed to conduct economic activities to support their nonprofit goals. However, practical situation in different EU member states differs in this aspect. So, in some countries, for example, Bulgaria and Germany, NGOs can conduct economic activities if they meet certain criteria. But in other countries, for example, France, they are not allowed to do this.

In general, there are reasonable time limits for state bodies to make a decision whether to grant NGO legal personality. However, England and Wales (parts of the UK) the procedure to confirm legal personality by special Charity Commission takes rather long: 15 days to inform nonprofit that they received documents and in average 88 days to make a decision.

According to Recommendation NGOs should not need any approval of state bodies to make changes in their statutes unless these changes influence their objectives or name. However, in practice NGOs should in some countries inform state bodies about changes in statutes and in some countries (for instance, France) they need even approval of state bodies to do that.

Generally, states help NGOs mainly by giving them tax benefits.

According to Recommendation governments should consult NGOs while drafting legislation that impacts status, activities or sphere of operation of nonprofits. This is implemented through state offices responsible for cooperation with NGOs.

In general, Recommendation CM/Rec (2007)14 of the Committee of Ministers to member states on the legal status of non-governmental organisations in Europe is implemented in EU member states. However, one can find different versions of implementation of some aspects within the EU.

Literature:

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Yak organizyvaty derzavnyu polityku spruyannya rozvutky gromadyanskogo syspilstva / [M.V. Lacuba, O.S. Hmara, A.O. Krasnosilska [and others]; Ukr. Nezalez. Centr Polit. Doslidz. – K: [Agenstvo "Ukraina"], 2011. – 224 p. ISBN 978-966-2157-49-9. Stattya "Evropeiska praktyka vukonannya politychnuh dokyumentiv ta ofisu zvyazky, yaki pidtrumuyt pozvutok gromadyanskogo syspilstva". Cu stattyi pidgotyvala Katerina Hadzi-Miceva-Uvans (starshuy konsyltant ECNP) za naykovoї pidtrymky Annu Asypovuch (koordynator proekty, ECNP), Andrea Udit Tot (programnyu menedzer ECNP) i Fabricii Saplisson, konsyltanta Miznarodnogo centry nekomerciyного prava (MCNP).

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СУЧАСНА МАРКЕТИНГОВО- ЛОГІСТИЧНА КОНЦЕПЦІЯ ВИРОБНИЧОГО ПІДПРИЄМСТВА

СОВРЕМЕННАЯ МАРКЕТИНГОВО-ЛОГИСТИЧЕСКАЯ КОНЦЕПЦИЯ ПРОИЗВОДСТВЕННОГО ПРЕДПРИЯТИЯ

MODERN MARKETING LOGISTIC CONCEPTION OF PRO- DUCTIVE ENTERPRISE

В статті запропоновано авторський підхід до розбудови маркетингово-логістичної концепції промислового підприємства. На підприємстві спільність дій маркетингової і логістичної систем проявляється в виконанні функції фізичного розподілу і розбудови дистриб'юторської мережі як комплексної категорії, що включає розподіл, товарорух і організацію торгівлі з наперед і після продажним сервісом. З логістичного підходу вагому роль в маркетингу виконує організація і управління інформаційними потоками. Це створює основу для прийняття компетентних рішень в оперативній і в стратегічній діяльності підприємства для планування збутової діяльності. Вплив маркетингу проявляється в забезпеченні дослідження кон'юнктури ринку, ціноутворенні, стимулюванні попиту на продукцію, а використання логістики дає можливість найкращим способом вирішувати питання ринкового розподілу, а саме, управляти запасами, організовувати післяпродажне обслуговування, вести ділові переговори, заключати контракти і надавати додаткові послуги в процесі поставки про-