

# “Legal support of innovative activity of small and medium enterprises in Ukraine”

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## LEGAL SUPPORT OF INNOVATIVE ACTIVITY OF SMALL AND MEDIUM ENTERPRISES IN UKRAINE

### Abstract

In the context of European integration, the importance of state policy in the field of innovation of enterprises, especially small and medium-sized businesses, is growing. Therefore, the state of the regulatory framework should promote the development of Ukraine's innovation system, which will increase the amount of foreign investment and increase the welfare of the population. All this requires effective coordination between legislative institutions. The dynamic formation of the legal basis for the development of innovation activities of small and medium enterprises shows positive trends, but attempts to intensify innovation activities have not been implemented in full.

The article generalizes the Ukrainian legislative and regulatory support to support the innovation activities of small and medium enterprises. The structure of the institutional basis for supporting the innovation activities of small and medium enterprises was drawn up. Problems of functioning of the national innovation system are revealed. In the process of research the following methods were used: analysis and synthesis, induction and deduction, comparison, graphical and tabular method, system method.

The state of the innovation system of Ukraine in relation to the world level is determined on the basis of international indices. The directions of solving the revealed problems of innovative activity of small and average enterprises are proposed, which should be solved by means of state policy tools.

### Keywords

innovative activity, innovative development, state policy, legal support, SME, innovative processes

### JEL Classification

L20, L53, O31, O38

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## ПРАВОВЕ ЗАБЕЗПЕЧЕННЯ ІННОВАЦІЙНОЇ ДІЯЛЬНОСТІ МАЛИХ ТА СЕРЕДНІХ ПІДПРИЄМСТВ В УКРАЇНІ

### Анотація

В умовах євроінтеграції зростає важливість державної політики у сфері інноваційної діяльності підприємств, особливо малого та середнього бізнесу. Тому стан нормативно-правової бази має сприяти розвитку інноваційної системи України, що забезпечить збільшення кількості іноземних інвестицій та зростання добробуту населення. Все це вимагає ефективної координації між законодавчими інститутами. Динамічне формування правових основ розвитку інноваційної діяльності малих та середніх підприємств демонструє позитивні тенденції, однак спроби активізації інноваційної діяльності не було реалізовано у повному обсязі.

У роботі проведено узагальнення українського законодавчо-нормативне забезпечення підтримки інноваційної діяльності малих та середніх підприємств. Було складено структуру інституційного базису підтримки інноваційної діяльності малих та середніх підприємств. Виявлено проблеми функціонування національної інноваційної системи. В процесі дослідження використовувались такі методи, як: аналіз та синтез, індукція та дедукція, порівняння, графічний та табличний метод, системний метод. Визначено стан інноваційної системи України відносно світового рівня на основі міжнародних індексів. Запропоновано напрями вирішення виявлених проблем інноваційної діяльності малих та середніх підприємств, які повинні бути розв'язані за допомогою інструментів державної політики.

### Ключові слова

інноваційна діяльність, інноваційний розвиток, державна політика, правове забезпечення, МСП, інноваційні процеси

### Класифікація JEL

L20, L53, O31, O38

## INTRODUCTION

The current state of innovation is a consequence of the lack of strategic vision and consistent state policy to transfer Ukraine for an innovative path of development, the formation of a national innovation ecosystem (set of institutions, relations, and various types of resources involved in creating and applying scientific knowledge and technologies, ensuring the development of innovative activity), which would ensure its implementation and increase the development of innovative culture in the state, using, in addition to financial, other mechanisms for the development of innovative activity. Despite the presence of certain elements, there is no holistic national innovation system, the purpose of which is to create innovative products (processes) and their rapid introduction to the market (implementation).

The existing structural elements of the national innovation ecosystem and the regulatory field of their functioning are not built into a single structure. So the results of these elements are isolated and do not have a synergistic effect, which should be to increase the efficiency of national production of goods (services) and strengthen their competitiveness due to large-scale implementation of the results of scientific research and scientific and technical (experimental) developments. Thus, for the sustainable development of the state it is necessary to provide favorable conditions for the formation and operation of innovative enterprises, the development of the national innovation ecosystem, attracting domestic and foreign investors.

## 1. LITERATURE REVIEW

State regulation of innovation activities of small and medium enterprises in Ukraine is based on the Commercial Code of Ukraine, Laws of Ukraine “On Development and State Support of Small and Medium Enterprises in Ukraine”, “On the National Program for Small Business Development in Ukraine”, “On Innovation”, “On scientific and scientific-technical activity”, “On higher education”, “On science parks”, “On the special regime of innovation activity of technology parks”, “On industrial parks”, “On priority areas of innovation activity in Ukraine”, “About the State budget” etc.

The issue of legal support for innovation of small and medium enterprises has been repeatedly emphasized in the works of many scientists. Degtyar and Kryukov (2011) focuses on the peculiarities of innovation legislation in Ukraine. The author explores the legal mechanism of support for innovation processes. The author concludes that a number of basic laws do not apply in Ukraine due to the lack of bylaws necessary for their implementation.

Thus, Palka (2019) considers foreign practice of innovation management. The author identifies that government support is essential to achieve effective implementation of new technologies in innovation. The legal basis for supporting the development of innovative entrepreneurship in the United States, Japan, Canada, France, and the United Kingdom has been identified. Kolisnichenko (2017) also reveals the ineffectiveness of the existing regulatory and legal support for innovation of small and medium enterprises. The author identifies the main ways to create a favourable innovation climate for businesses, including the creation of local and regional infrastructure. The most effective innovation structures, in particular techno parks, are singled out. Liguzova (2017) proves the importance of stimulating the development of small and medium-sized businesses through effective public innovation policy. It is substantiated that the state of legal support of innovative activity of small and medium enterprises primarily affects the economic well-being of both enterprises and the country.

## 2. AIMS

The purpose of the work is to generalize regulations and develop recommendations for legal support of innovative activities of small and medium enterprises in Ukraine, which adapts to European standards.

### 3. METHODS

The theoretical and methodological basis of the study is the provisions of regulations on innovation and development of small and medium enterprises, scientific works of domestic and foreign scientists. In the process of research, a systematic approach was used to generalize the world experience of managing innovative activities of entrepreneurship and legal support of innovative legislation of Ukraine.

### 4. RESULTS

Currently, the Ukrainian legislative and regulatory support for SME consists of two levels and an institutional basis (Figure 1).

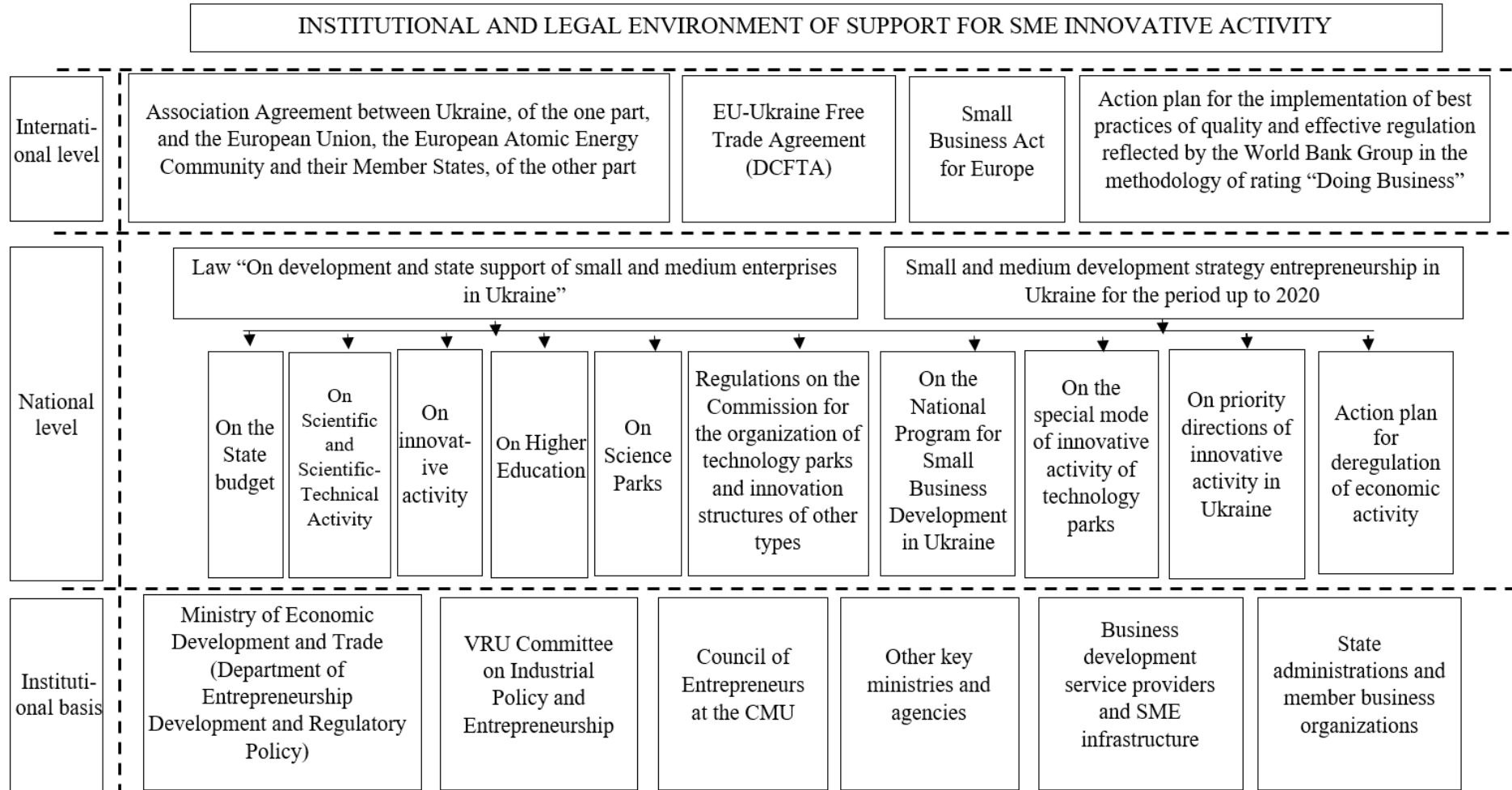
In more detail the structure of the institutional basis for supporting innovation activities of SME is presented in Table 1.

**Table 1.** The structure of the institutional support base innovation activities of SME

Source: Systematized on (Government portal, n.d., The Verkhovna Rada of Ukraine, n.d.).

Institutional body	Its components	Functions and goals
Ministry of Economic Development and Trade	The Department of Entrepreneurship Development and Regulatory Policy has 4 departments	Functional powers in the field of formation and implementation of state policy
Other key ministries	Ministry of Finance of Ukraine	Indirectly affect the development of SMEs
State administrations	Ministry of Regional Development	Creation of regional development programs, financing from regional and local budgets
Verkhovna Rada Committee on Industrial Policy and Entrepreneurship	Ministry of Education and Science of Ukraine and others	Formation and implementation of policy in the field of entrepreneurship
Other key institutions	Local governments	Responsible for the implementation of regulatory policy
	–	Carries out inventory of regulatory acts, development of criteria for their evaluation
	State Regulatory Service of Ukraine	Responsible for protecting businesses from illegal actions and helping to fight corruption
	Office of effective regulation Business Ombudsman Board	Promotes the development and promotion of exports It does not currently provide new funding to SME
Membership business organizations	Export Promotion Office	–
Business development service providers	Ukrainian Fund for Entrepreneurship Support	–
Other infrastructure	Chamber of Commerce and Industry, regional chambers of commerce and industry, industry associations, bilateral organizations / chambers	–

It should be noted that despite attempts to intensify innovation, they were not implemented in full (Table 2).



Source: Systematized on (The Verkhovna Rada of Ukraine, n.d.).

**Figure 1.** Institutional and legal environment to support SME innovation

**Table 2.** Changes and implementation of government regulations in the legislative support of SME innovation

Source: Systematized on (Government portal, n.d., The Verkhovna Rada of Ukraine, n.d.).

Normative act	Changes
Law of Ukraine "On Innovation"	Starting in 2002, provisions on support for innovation were suspended and then they were removed
Tax Code of Ukraine	It does not contain provisions on state support of elements of innovation infrastructure or economic entities engaged in innovation activities
State target economic program "Creation of innovation infrastructure in Ukraine" for 2009–2013	It was not financed from the state budget, as a result of which the measures envisaged by the Program were not implemented
State target program for the development of information and analytical support for the implementation of state innovation policy and monitoring of the state of innovative economic development	Tasks and activities are partially funded
Action plan for the implementation of the Concept of reforming public policy in the innovation sphere for 2015–2019	Measures were not implemented due to their lack of system and disregard for the need to involve a wide range of stakeholders - business, civil society, the scientific community
Some issues of determining the medium-term priority areas of innovation at the national level for 2012–2016	In accordance with the monitoring of the implementation of priority areas of innovation, funds from the state budget and other sources for the development of innovation infrastructure were not allocated
Some issues of determining the medium-term priority areas of innovation at the national level for 2017–2021	

At different stages of the innovation process problems have been identified that need to be addressed through public policy instruments (Table 3).

**Table 3.** Problems of functioning of the national innovation system

Source: Systematized on (Government portal, n.d.).

Stage of the life cycle	Problem	Directions for solution
At the stage of creating innovations	<ul style="list-style-type: none"> <li>- lack of funding, including public;</li> <li>- lack of established communication between scientists and business representatives who are interested in the development of innovation, both to the needs of business in innovation, and data on new and improved technological solutions that can be used in production;</li> <li>- lack of reliable forecasting of trends and research on the impact of instruments of state regulation of innovative economic development.</li> </ul>	<ul style="list-style-type: none"> <li>- increase funding for research on a competitive basis, focusing on the transition of results obtained in basic research in the field of applied research and scientific and technical developments, which are involved in the financing of business;</li> <li>- creation of settlements within settlements, intended primarily for the development of intellectual, creative activity, innovation movement, development of creative industries (including the allocation of territories, the creation of appropriate infrastructure, providing information-analytical and methodological support for innovation culture);</li> <li>- improving the quality of education by bringing it closer to the needs of the global market and the need for professionals capable of creating, adapting and using technological innovations, supporting the introduction of disciplines in entrepreneurship, financial literacy and intellectual property protection.</li> </ul>
At the stage of innovation transfer	<ul style="list-style-type: none"> <li>- disagreements on the regulation of relations in the field of intellectual property between the Civil Code of Ukraine and acts of special legislation of Ukraine governing this area of relations;</li> <li>- lack of a mechanism enshrined in the law for the transfer of technologies created or purchased with budget funds abroad;</li> <li>- the difficulty of assessing the value of intellectual property rights and the lack of specialists to implement it.</li> </ul>	<ul style="list-style-type: none"> <li>- to address the gaps that exist in the legislation on the creation and operation of elements of innovation infrastructure, and to develop methodological documents on the creation and operation of such infrastructure;</li> <li>- increase the number of information events and their audience to spread the positive experience of successful start ups, innovative projects, introduce regular national and international events with the participation of representatives of science, education and business to establish relationships between them;</li> <li>- to provide methodological and consulting assistance on various aspects of innovation;</li> <li>- to develop methodical materials for institutions of higher education and scientific institutions on the activities of managers in the organization of innovation, to organize information campaigns on the feasibility of introducing such a position, which will be held by a specialist with experience in the field of innovative business.</li> </ul>

**Table 3 (cont.). Problems of functioning of the national innovation system**

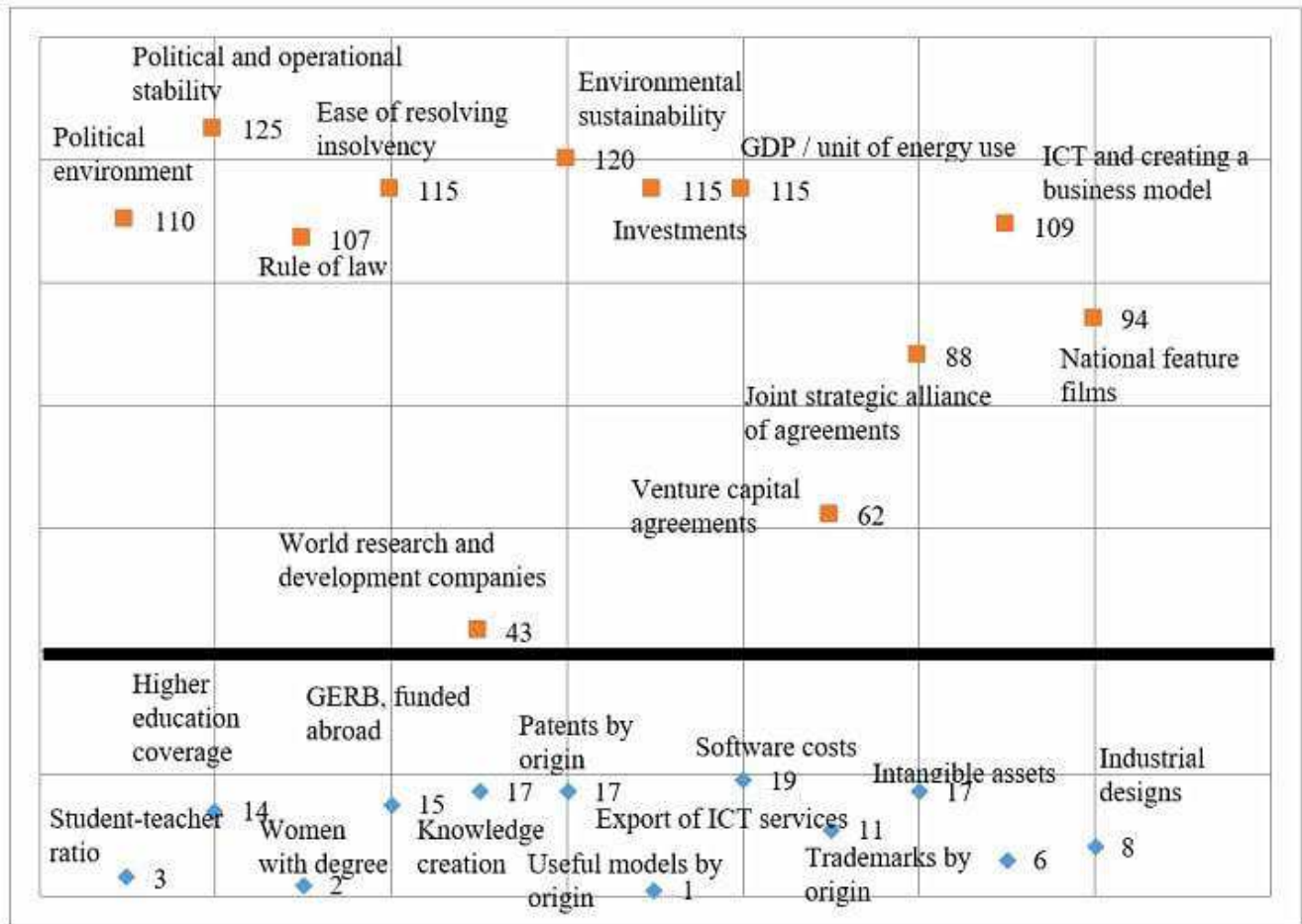
<p>At the stage of innovation implementation by creating a specialized small innovative enterprise - a startup</p>	<ul style="list-style-type: none"> <li>- burdensome regulation, in particular complicated access to the labour market of foreigners and excessively complicated process of liquidation of the enterprise;</li> <li>- high level of taxes;</li> <li>- high costs for the newly formed enterprise for the lease of premises and equipment, payment for third-party services (primarily accounting);</li> <li>- insufficient development of venture financing in Ukraine and problems of legal protection of property of foreign investors;</li> <li>- lack or limited efficiency of innovation infrastructure, which should promote the development of innovative entrepreneurship.</li> </ul>	<p>To create favourable conditions for bringing innovations to commercial use, in particular through the development of start-ups, it is necessary to ensure:</p> <ul style="list-style-type: none"> <li>- stimulating venture business activities;</li> <li>- effective operation of the simplified system of taxation and reporting for the newly formed small innovative business;</li> <li>- legislative regulation of measures for state support of small innovative businesses subject to co-financing from other sources;</li> <li>- raising the level of knowledge on academic entrepreneurship and creating new forms of innovation infrastructure.</li> </ul> <p>For the development of start-ups it is necessary:</p> <ul style="list-style-type: none"> <li>- to simplify participation in the venture fund of an investor - an individual by reducing the amount of funds required for the purchase of securities of such a fund;</li> <li>- to promote the creation of elements of innovation infrastructure that will provide financial assistance to inventors and start-ups.</li> </ul>
<p>At the stage of introduction of innovations at the already existing enterprise, entry into serial production</p>	<ul style="list-style-type: none"> <li>- insufficient level of interest of business entities in the implementation of the results of domestic research and scientific and technical (experimental) developments, which require additional time and financial resources for their full application;</li> <li>- lack of independent assessment of the technological level of scientific and technical (experimental) development and the ability to technically implement it;</li> <li>- lack of «common language» of business and science;</li> <li>- low level of awareness of innovators in the field of legal protection and protection of intellectual property.</li> </ul>	<p>In order to establish links between Ukrainian innovators and partners (business and government representatives) potentially interested in the commercialization of their innovations, it is important to:</p> <ul style="list-style-type: none"> <li>- introduction of monitoring of business demand for innovative solutions to existing problems;</li> <li>- promoting awareness of scientists and entrepreneurs about the various stages and participants in the innovation process.</li> </ul> <p>In order to establish links between domestic innovators and partners, it is also necessary to:</p> <ul style="list-style-type: none"> <li>- identify regional priorities based on smart specialization approaches and launch pilot projects aimed at creating a system of relationships and mutual support for regions with different levels of industrial development;</li> <li>- on the basis of this Strategy to form strategies of regional innovative development taking into account needs and potential of the region;</li> <li>- to ensure the expansion of participation in international specialized exhibition events in order to promote Ukrainian innovative products.</li> </ul>
<p>At all stages of transformation of the idea into innovative products</p>	<ul style="list-style-type: none"> <li>- The problem of going abroad by qualified personnel, scientists, inventors, entrepreneurs, the main reasons for which are:</li> <li>- higher quality of life (security and rule of law, education and health care, social protection if necessary, infrastructure, environment, etc.);</li> <li>- creative and entrepreneurial environment created in the world's best centers of innovation.</li> </ul>	<p>According to the specified directions it is necessary:</p> <ul style="list-style-type: none"> <li>- revision of priority directions of development of science and technology in order to bring them closer to the directions defined in the developed countries of the world, on the basis of modern world technological trends;</li> <li>- creation of settlements within settlements, intended primarily for the development of intellectual, creative activity, innovation movement, development of creative industries (including the allocation of territories, the creation of appropriate infrastructure, providing information-analytical and methodological support for innovation culture).</li> </ul> <p>In order to intensify the creation of innovations it is also necessary:</p> <ul style="list-style-type: none"> <li>- to work out the possibility of stimulating enterprises to scientific research and scientific and technical (experimental) developments and innovation activities;</li> <li>- to develop methodical materials on involvement in implementation of joint innovative projects of students of various specialties and institutions of higher education.</li> </ul>

The position of the national innovation system of Ukraine according to the “Global Innovation Index” is 47th. The distribution by sub-criteria of the “Global Innovation Index” by opportunities and threats is presented in Figure 2.

A comparative analysis of the state of Ukraine’s innovation system relative to the world level on the basis of international indices shows that Ukraine has a high educational and scientific potential, able to produce various innovations in the form of ideas, research, patents (Government portal, 2019).

## 5. DISCUSSION

Despite the developed network of institutional environment to support SME innovation, there is currently no clear coordination between institutions.



Source: Systematized on (Global Innovation Index, 2019).

**Figure 2.** Opportunities and threats to the innovative development of Ukraine for “Global Innovation Index”

The Government considered a number of promising draft laws, in particular, draft laws of Ukraine: “On Support and Development of Innovation”, “On Amendments to the Tax Code of Ukraine to Establish a Special Tax Regime” and others, which partially provided various means and proposals to improve the investment climate, creating more favorable conditions for the development of SME and start-ups in Ukraine and its cities, but they were rejected.

The adoption of the CMU Orders “On approval of the action plan for the implementation of the Strategy for the development of small and medium enterprises in Ukraine until 2020” and “On approval of the Strategy for the development of high-tech industries until 2025 and approval of the action plan for its implementation”, “On approval of the Strategy development of innovation in the period up to 2030”, “On approval of the National Export Strategy”, “On approval of the Strategy for the development of the industrial complex of Ukraine until 2025” etc., which will increase the share of enterprises engaged in invention, applied research and scientific and technical developments, in particular, small, first of all - outside the public sector and increase revenues from the sale and use (primarily, export) of intellectual property, science-intensive products. During 2013–2018, Ukraine approved almost 40 strategic documents at the industry level related to the development of innovation in one area or another. Their analysis shows that all documents contain measures to support innovation in each area.

Priority areas of innovation at the national level for 2012–2016 were determined by Resolutions of the Cabinet of Ministers of Ukraine No. 294 of March 12, 2012, No. 397 of May 17, 2012 and Resolution of the Cabinet of Ministers of Ukraine No. 1056 of December 28, 2016. Information on state - target programs on the website of the Ministry of Education and Science has not been updated since 2012.



One of the reasons for this is that the Law on Scientific and Scientific-Technical Expertise has significant bureaucratic barriers and does not take into account the European experience. Thus, according to Article 6 of this law, the grounds for conducting scientific and scientific-technical expertise are the decisions of the executive and local governments, adopted within their powers, which is contrary to the European approaches. Execution of the audit of the methodology of state examination of innovative projects, approved in accordance with the Resolution of the Cabinet of Ministers No. 1474 of September 17, 2003. Is not possible due to the lack of open access to this technique.

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## CONCLUSION

The legal provision of support for small and medium-sized enterprises is generalized. It consists of two levels and an institutional basis. It is determined that there is no effective coordination between institutions, there are significant bureaucratic barriers and the experience of the European Union is not taken into account. International documents and programs need to be adapted to national conditions.

Analysis of the structure of the institutional basis for supporting the innovation activities of small and medium-sized enterprises showed that despite attempts to intensify innovation activities, they were not fully implemented. It is necessary to strengthen the institutional capacity of small and medium enterprises, institutions to support the innovation activities of small and medium enterprises need a basis for development and coordination, infrastructure needs to be expanded.

The problems at different stages of the innovation process are considered and the directions of innovative development of small and medium enterprises are formed, which consist of:

- increase funding for research;
- creation within the settlements of the places intended first of all for development of intellectual, creative activity, innovation movement, development of creative industries;
- improving the quality of education;
- settlement of differences on the settlement of relations in the field of intellectual property between the Civil Code of Ukraine and acts of special legislation of Ukraine governing this area of relations;
- enshrining in the legislation a mechanism for the transfer of technologies created or purchased for budget funds abroad;
- simplification of valuation of intellectual property rights and increase of specialists for its implementation;
- establishing links between Ukrainian innovators and partners (representatives of business and the state), potentially interested in the commercialization of their innovations.

A comparative analysis of the state of Ukraine's innovation system relative to the world level on the basis of international indices shows that Ukraine has a high educational and scientific potential.

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Writing – review & editing: Alina Shapovalova, Viktoriia Tyshchenko.

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