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## ВЕНЧУРНЫЕ ИНВЕСТИЦИИ В КОНТЕКСТЕ МЕЖДУНАРОДНОГО ЧАСТНОГО ПРАВА<sup>1</sup>

**Аннотация.** В наши дни венчурные инвестиции имеют большое значение для научно-технического прогресса, поскольку они связывают воедино идеи и капитал. Зачастую такие капиталовложения носят трансграничный характер, что определяет специфику этих инвестиций. В то же время в международном праве отсутствуют правовые акты, регулирующие трансграничные инвестиции. В данной работе предпринята попытка осмыслить необходимость принятия такого правового акта и определить место трансграничных венчурных инвестиций в международном частном праве.

**Ключевые слова:** венчурные инвестиции, венчурный капитал, правовое регулирование.

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## VENTURE INVESTMENTS IN CONTEXT OF PRIVATE INTERNATIONAL LAW

**Abstract.** In today's world, venture investments are of great importance for scientific and technological progress, as they link together ideas and capital. Often such investments are cross-border, which determines the specifics of these investments. At the same time, there are no legal acts regulating cross-border investments in international law. In this work, an attempt is made to understand the need for the adoption of such a legal act and to determine the place of cross-border venture investments in private international law.

**Keywords:** venture investment, venture capital, legal regulation.

**V**enture capital is the provision of long-term funds to young companies that are at an early stage of development and are engaged in high-risk innovative projects, in exchange for a stake in these companies. Venture capital provides a financial link of innovation infrastructure, uniting the carriers of capital and technology carriers, and it solves the problem of financial insufficiency in the sector of starting innovative

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projects. Thanks to venture capital many outstanding companies were set (such as Intel, Microsoft, Google, Yandex, Abby Russia, A4Vision and others).

The profound changes taking place in the entire system of international economic relations lead to the emergence of numerous difficulties in the legal regulation of relations in the implementation of investment activities. Some lawyers assume that one of these problems is legal vacuum in cross-border venture investments, which is currently being filled by the general principles of investment regulation and the analogy of law, including the conflict-of-laws regulation typical of a foreign economic transaction. However, lack of legal norms do not prove the existence of problem in any area of social life. That is why in this article we will try to make sure if cross-border venture investments should be regulated in more detail.

Relations on cross-border venture investment arise between individuals and legal entities operating in different legal systems, concerning the cross-border placement of civil rights objects in companies in early stages of development, as well as professional management of these investments, aimed at increasing the value of the object and its subsequent implementation in the medium term, in order to make a profit or obtain another effect, characterized by an increased risk of losses.

Venture capital investments have following typical features:

- fiduciary nature of obligations;
- small capitalization of recipient companies;
- increased risk of loss.

It would be possible to assume expediency of creation of the uniform international legal act regulating the relations in the sphere of venture investment, but it seems that such necessity does not exist. This is due to the broad regulation of cross-border investment relations, which predetermines the unity of investment regulation and the application of international investment agreements to venture capital relations. Proceeding from a certain similarity with direct investments, the corresponding special investment agreements can be applied to venture capital by analogy of the law. The main legal regulation, which creates a legal field for the activities of cross-border venture investors, is contained in national legislation. In the development of numerous multilateral and bilateral agreements, under the influence of the processes of unification and harmonization of law, many countries are trying to pursue their policy of legal regulation of relations on cross-border venture investment, which predetermines a significant variety of national ways of legal regulation of these relations.

In legal systems of countries with developed market relations there are neither special laws on venture activity, nor a legal definition of the concept of venture capital investments. So, basically, this method of investment is carried out within the framework of complex regulatory legal acts, as well as through indirect regulation applied in this area.

Special legislation exists mainly in developing countries, which are particularly interested in attracting investors for the innovative development of their industries.

The key features of such regulation are:

- Tax benefits. In Taiwan, India, investors' dividends are tax-free.
- Special registration procedure. In India, venture investors are registered in a special order. The advantage of this gradation is that venture investments are regulated by special legal regime. Unlike foreign direct investors, venture capitalists do not need

to obtain permission from the Central administration to invest in certain areas, and shares issued by unregistered Indian companies can be sold to venture capitalists at a negotiated price.

- Procedural rules. Mainly relate to the timing during which venture capital funds have to place interest on their savings.
- Investment restrictions. Hungarian law states that investors should not have an interest in financial institutions, investment service providers, management companies, clearing institutions, insurance companies and companies associated with money games.

In contrast to the substantive law, there is no special conflict regulation in national legislation, which predetermines the application to cross-border venture investment relations of the general tools of private international law existing in domestic law.

Given the specifics of this type of investment, it seems that excessive interference and regulation of activities by the state can only harm. Therefore, at the moment the best strategy in the legal regulation of venture investments is to improve the agreements between the parties themselves. It is the contractual principle of legal regulation that is of particular importance in venture capital relations.

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