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LEGAL FRAMEWORK OF INVESTMENT CLIMATE IMPROVING IN UKRAINE: CRUCIAL POINTS

In this article the main points of legal regulating of investment activities in Ukraine that require further improvements are determined. Actual state of Ukrainian policy and current problems of state were taken into consideration. Though the main points of research were centered on further improving of investment climate in the aspect of legal framework. Preferences were set to make Ukrainian legal framework of improving of investment climate more flexible and determined. Given recommendations are published not just to make an acceptable legal regulating of investment climate for investors but to be the basis for further scientific discussions.

Key words: investments, investment policy, law, legal regulations.

ПРАВОВА ОСНОВА ПОКРАЩЕННЯ ІНВЕСТИЦІЙНОГО КЛІМАТУ В УКРАЇНІ: КРИТИЧНІ МОМЕНТИ

Веклич В. О.

У статті визначено основні моменти правового регулювання інвестиційної діяльності в Україні, які вимагають подальшого удосконалення. Фактичний стан української політики і актуальних проблем держави були враховані. Хоча основний напрямок дослідження було спрямоване на подальше вдосконалення правової бази для інвестиційного клімату. Перевагу було віддано подальшій розробці української правової бази для інвестиційного клімату як більш гнучкою і визначеною. Дані рекомендації публікуються не тільки, щоб зробити більш прийнятним для інвесторів правове регулювання інвестиційного клімату, а й щоб бути основою для подальших наукових дискусій.

Ключові слова: інвестиції, інвестиційна політика, право, правове регулювання.

ПРАВОВАЯ ОСНОВА УЛУЧШЕНИЯ ИНВЕСТИЦИОННОГО КЛИМАТА В УКРАИНЕ: КРИТИЧЕСКИЕ МОМЕНТЫ

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В статье определены основные моменты правового регулирования инвестиционной деятельности в Украине, которые требуют дальнейшего усовершенствования. Фактическое состояние украинской политики и актуальных проблем государства были учтены. Хотя основное направление исследования было направлено на дальнейшее совершенствование правовой базы для инвестиционного климата. Предпочтение было отдано дальнейшей разработке украинской правовой базы для инвестиционного климата как более гибкой и определённой. Данные

рекомендации публикуются не только, чтобы сделать более приемлемым для инвесторов правовое регулирование инвестиционного климата, но и чтобы быть основой для дальнейших научных дискуссий.

Ключевые слова: инвестиции, инвестиционная политика, право, правовое регулирование.

Statement of the problem. Current state of investment climate in Ukraine highly crucially depends on political actions of government and legal issues concerning improving of internal legal framework, taxation and clearing of legal ways of settling of business disputes by courts and in other ways. Investors highly depend on risk rates that include different indications. Though nowadays we can see that different problems have formed a unattractive image of Ukrainian economical environment for investing activities. As the key point to improve the current state is making Ukrainian legal system more flexible and sustainable to possible breaches. As the result of observation and further research it is obvious that Ukrainian legal framework has to be modernized according to current state of affairs and existing challenges. And investment policy should become the part of economic policy and crucially needs to be reflected in legal policy that has to be developed as well.

Analysis of recent researches and publications. Different problems of investment climate were thoroughly researched by different scientists for many years but there were no special detailed researches devoted to the problem of it's legal framework. But we still can mention an article called «Regulatory legal support of investment-innovative activity» wrote by Y. Verbytska [1]. Also we can mention Explanation of the Ministry of Justice of Ukraine called "Investment Legislation: Progress, Problems and Prospects" where state authorities cleared some issues concerning legal overview of the main laws on investing and investment activities in Ukraine [5; 8]. At the same time investment climate was thoroughly studied for many years by different scientists and researchers [2; 3; 4; 9].

Purpose of the article. Research and studying of opportunities of improving of investment climate in Ukraine from the prospect of it's legal framework.

Key research findings. Improving of investment climate necessarily requires some important actions that have to be made by governmental authorities in legal sphere. Though we can surely consider that current state of overregulation is obviously one of negative tendencies that may prevent further increase of investors' interest in Ukrainian economy. Actual state of governmental relations with business environment is in some way positive but at the same time those principles that were declared by politicians still have to be put into action as is.

Functioning of legal regulation of investment activities still have to be optimized as it is may be used as the basis for unreasonable corruption of government in case of illegal private interest of state authorities as it was observed in former soviet countries for many years when state official illegally used their positions to increase their fortune that could be observed quite obviously.

As it was found there are many different laws that actually regulate different aspects of investing in Ukraine and in total there are up to 70 different legal acts that actually regulates different aspects of it and related activities.

Though in the current overview of prospective development it is obvious that such

regulations have to be reconsidered and set into optimized form.

At the current prospective there seem to be a few possible steps to increase attraction of the investment climate in Ukraine. First of all it is improving of legal protections or setting special kinds of legal protections for investors. A. Khachaturian and R. Moloo noted that «Increasingly, foreign investors are aware of the legal protections afforded to their investments under international law, including under investment treaties» [10, p. 1473]. So we have to reconsider the role of international treaties regulating investing activities or protecting investors' rights and property. That way Ukraine may improve the favorability of it's economy for foreign investors and improve it's reliability.

On the contrary Ukrainian state officials can also provide further activities intended to make Ukrainian legal regulations less complicated and less vulnerable to possible breaches or abuses by state officials. In this case it is obvious that investing policy is still the part of integrate economic policy that highly relies on state legal activities and laws. So the need in strategic regulations of the state legal system is obvious. The Constitution of Ukraine as the basis of the legal system [6] but at the same time Ukrainian state authorities and civil society have to provide further actions aimed to prevent the breach of the power of law. Primacy of the power of law is not just the theory but also an important practical issue that is actually the basis of further legal, state and economical development.

In case of Ukraine such legal policy have to consist different regulations aimed to design the legal framework of state and it's different functions. The main problem is to design it in the way that will prevent undermining of the power of law on the state grade.

Though as the basis of legal policy there should be definite principles of state actions and responsibility of state authorities and state as is. Such principles could be:

1. Integrity of legal system (reflecting of different sides of peoples' lives in it).
2. Protective predetermination of legal system towards members of society (additional warranties of prioritizing of people and their rights and freedom).
3. Inadmissibility of state intervention into private life in case of peoples' opportunities to define their optimal actions and to put them into action without state regulations (additional protection of human rights).
4. Inadmissibility of overregulation of procedures (preventive analysis of legal acts by appropriate state authorities).
5. Simplification of procedures though to prevent abusing of power in case of illegal intentions of state authorities.
6. Actual verification of the income of state authorities.
7. Direct intervene of civil society into state actions in case of abuse of power or obvious breaches of the power of law (with creation of appropriate legal mechanism).

Functionally economic policy highly depends on legal policy as it's legal framework is created on the same legal basis and principles. Though in this case it is obvious that economic policy is influenced by the same tendencies that cause it's integral corruption and needs to be suppressed with appropriate actions. But still practical issues are as important as theory to make it operating.

So investment climate is highly vulnerable to the tendencies prevailing in state, society and legal system. If those tendencies are negative it highly reflects on investing activities causing

economic problems [7, p. 108]. But at the same time in case of appropriate legal regulation it is possible to develop and provide adequate investing policy as the part of economic policy in regard to achieve sustainable state development [9, p. 6].

Conclusions and perspectives for further research. In the view of current research it is obvious that further improvement of investment climate highly requires putting in to action of adequate investment policy as the part of economic policy. But at the same time it is required that appropriate regulations and mechanisms should be created to put into action practical aspects of the power of law that may be determined only in the framework of legal policy.

Such legal mechanisms and regulations also have to be developed on the basis of the right of law and prevailing of human rights. At the same time it is obvious that there should be considered an appropriate basis for the balance of individual rights and legal interests of people represented by associations of citizens and civil society though to prevent cases of abuses of rights. That is especially important in the view of investment activities in case of abuse of legal opportunities so to increase income.

These conclusions actually outlines the main problems in investment climate and some of possible solutions to improve it's state that requires further scientific research.

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